

**THE ONE HUNDRED AND ELEVENTH DAY**

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CARSON CITY (Saturday), May 26, 2007

Assembly called to order at 11:17 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblymen Beers, Christensen, and Goedhart, who were excused.

Prayer by the Chaplain, Terry Sullivan.

Let us pray. Dear Lord, please bless this Assembly; continue to give the members the wisdom and strength to continue this very difficult and sometimes frustrating work. We ask Your blessing, also, for the support staff and for all those who contribute to this process. We ask that You allow us to continue to work together in harmony no matter what the issue or the problem. And was ask these things in whose Name we pray.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Oceguela 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 Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Senate Bill No. 490, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN KOIVISTO, *Chair*

*Madam Speaker:*

Your Committee on Ways and Means, to which were referred Senate Bills Nos. 125, 346, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

**MESSAGES FROM THE SENATE**

SENATE CHAMBER, Carson City, May 25, 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. 147, 331, 446.

Also, I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 226, 567, 570, 576, 580, 596, 612, 616; Assembly Joint Resolution No. 7; Assembly Joint Resolution No. 16 of the 73rd Session.

Also, I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 326, 608; Senate Bills Nos. 250, 572.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 25, Senate Amendment No. 758; Assembly Bill No.

64, Senate Amendment No. 827; Assembly Bill No. 127, Senate Amendment No. 792; Assembly Bill No. 244, Senate Amendment No. 952; Assembly Bill No. 373, Senate Amendments Nos. 805, 969; Assembly Bill No. 385, Senate Amendment No. 771; Assembly Bill No. 386, Senate Amendment No. 815; Assembly Bill No. 439, Senate Amendments Nos. 807, 1004; Assembly Bill No. 460, Senate Amendment No. 995; Assembly Bill No. 462, Senate Amendment No. 808; Assembly Bill No. 483, Senate Amendment No. 1000; Assembly Bill No. 508, Senate Amendment No. 999, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 52, Senate Amendments Nos. 760, 962; Assembly Bill No. 87, Senate Amendments Nos. 761, 968; Assembly Bill No. 139, Senate Amendment No. 804; Assembly Bill No. 193, Senate Amendment No. 755; Assembly Bill No. 285, Senate Amendment No. 812; Assembly Bill No. 558, Senate Amendment No. 950; Assembly Bill No. 562, Senate Amendment No. 564; Assembly Bill No. 569, Senate Amendment No. 708; Assembly Bill No. 585, Senate Amendment No. 713; Assembly Bill No. 592, Senate Amendment No. 772; Assembly Bill No. 593, Senate Amendment No. 802; Assembly Bill No. 600, Senate Amendment No. 851; Assembly Joint Resolution No. 9, Senate Amendment No. 743, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 92, Senate Amendment No. 790; Assembly Bill No. 148, Senate Amendment No. 669; Assembly Bill No. 178, Senate Amendments Nos. 770, 1013; Assembly Bill No. 209, Senate Amendments Nos. 994, 997; Assembly Bill No. 247, Senate Amendment No. 937; Assembly Bill No. 296, Senate Amendment No. 1019; Assembly Bill No. 335, Senate Amendment No. 1014; Assembly Bill No. 354, Senate Amendment No. 975; Assembly Bill No. 364, Senate Amendment No. 756; Assembly Bill No. 375, Senate Amendments Nos. 896, 1029; Assembly Bill No. 396, Senate Amendments Nos. 910, 978, 1002, 1024; Assembly Bill No. 428, Senate Amendments Nos. 695, 948; Assembly Bill No. 431, Senate Amendment No. 899; Assembly Bill No. 461, Senate Amendment No. 803; Assembly Bill No. 478, Senate Amendment No. 856; Assembly Bill No. 497, Senate Amendments Nos. 928, 943; Assembly Bill No. 513, Senate Amendment No. 1030; Assembly Bill No. 514, Senate Amendments Nos. 883, 1003; Assembly Bill No. 518, Senate Amendment No. 701; Assembly Bill No. 521, Senate Amendments Nos. 784, 1021; Assembly Bill No. 526, Senate Amendments Nos. 702, 991; Assembly Bill No. 573, Senate Amendment No. 931; Assembly Bill No. 604, Senate Amendments Nos. 886, 987; Assembly Joint Resolution No. 10, Senate Amendment No. 866, 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 concurred in the Assembly Amendment No. 918 to Senate Bill No. 3; Assembly Amendment No. 794 to Senate Bill No. 10; Assembly Amendment No. 795 to Senate Bill No. 16; Assembly Amendment No. 917 to Senate Bill No. 53; Assembly Amendment No. 768 to Senate Bill No. 78; Assembly Amendment No. 935 to Senate Bill No. 103; Assembly Amendment No. 819 to Senate Bill No. 110; Assembly Amendment No. 915 to Senate Bill No. 111; Assembly Amendment No. 919 to Senate Bill No. 112; Assembly Amendment No. 670 to Senate Bill No. 132; Assembly Amendment No. 859 to Senate Bill No. 169; Assembly Amendment No. 787 to Senate Bill No. 195; Assembly Amendment No. 823 to Senate Bill No. 247; Assembly Amendment No. 811 to Senate Bill No. 275; Assembly Amendment No. 689 to Senate Bill No. 277; Assembly Amendment No. 912 to Senate Bill No. 279.

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. 671 to Senate Bill No. 129; Assembly Amendments Nos. 820, 933 to Senate Bill No. 143; Assembly Amendment No. 821 to Senate Bill No. 184; Assembly Amendment No. 822 to Senate Bill No. 239.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Heck, Coffin and Cegavske as a first Conference Committee concerning Senate Bill No. 115.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Townsend, Washington and Mathews as a first Conference Committee concerning Senate Bill No. 154.

SHERRY L. RODRIGUEZ  
*Assistant Secretary of the Senate*

SENATE CHAMBER, Carson City, May 26, 2007

*To the Honorable the Assembly:*

I have the honor to inform your honorable body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 862 to Senate Bill No. 266.

SHERRY L. RODRIGUEZ  
*Assistant Secretary of the Senate*

#### INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 250.

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

Motion carried.

Senate Bill No. 572.

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

Motion carried.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 125.

Bill read third time.

Remarks by Assemblyman Goicoechea.

Roll call on Senate Bill No. 125:

YEAS—39.

NAYS—None.

EXCUSED—Beers, Christensen, Goedhart—3.

Senate Bill No. 125 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 346.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Senate Bill No. 346:

YEAS—39.

NAYS—None.

EXCUSED—Beers, Christensen, Goedhart—3.

Senate Bill No. 346 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 490.

Bill read third time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 1018.

SUMMARY—Revises **various** provisions governing ~~the prefiling, reprinting and transmittal of~~ bills and resolutions. (BDR 17-789)

AN ACT relating to the Legislature; **revising provisions governing bill draft requests authorized for various requesters**; revising provisions governing the prefiling, reprinting and transmittal of bills and resolutions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Existing law specifies the number of bill drafts various entities may request the Legislative Counsel to prepare. (NRS 218.240-218.255) Sections 1-7 and 13 of this bill revise those provisions to limit the number of measures that may be requested by most nonlegislative requesters and increasing the number of measures that may be requested by Legislators and chairs of legislative committees. Sections 6 and 8 of this bill require that certain measures requested on behalf of Executive Branch officers be prefiled on or before December 15 preceding session.**

Section ~~11~~ 7 of this bill **also** removes the provision that requires all bill drafts requested by the Supreme Court to be delivered to the Chairman of the Committee on Judiciary of each House.

Under existing law, when a prefiled bill or joint resolution is printed it must contain the standing committee to which the bill or joint resolution is proposed to be referred. The appropriate standing committee must be determined pursuant to the rules or recommendations for the referral of bills and joint resolutions adopted by the appropriate House during the preceding regular session of the Legislature. (NRS 218.278) Section ~~12~~ 9 of this bill removes the specified method for determining the appropriate standing committee.

**Section 14 of this bill provides that sections 1-8 and 13 of this bill expire by limitation on June 30, 2009.**

Under existing law, when a bill is amended it must be reprinted unless two-thirds of the members present vote to dispense with the reprinting of the bill. Existing law limits the circumstances under which such a vote may be taken to only those cases involving bills over 32 pages in length, amendments to the titles and preambles of bills, amendments to correct typographical errors, and other amendments which do not change the meaning, intent or significance of a bill. (NRS 218.320, 218.330) Sections ~~10 and 11~~ 10 and 11 of this bill remove such limiting circumstances.

Under existing law, when a bill or resolution is passed by both Houses it must be immediately transmitted by the Secretary of the Senate or the Chief Clerk of the Assembly to the Legislative Counsel to be enrolled. (NRS 218.340) Section ~~12~~ 12 of this bill revises that requirement by providing that the bill or resolution must be transmitted to the Legislative Counsel upon

adjournment . ~~[unless the Secretary of the Senate or the Chief Clerk of the Assembly is directed by the respective House to transmit the bill or resolution immediately.]~~

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

**Section 1. NRS 218.2405 is hereby amended to read as follows:**

218.2405 1. Except as otherwise provided by specific statute, joint rule or concurrent resolution of the Legislature, the Legislative Counsel shall honor:

(a) The number of requests for the drafting of a bill or resolution for a regular session of the Legislature only as provided in NRS 218.240 to 218.255, inclusive.

(b) A request for the drafting of a bill or resolution for any session of the Legislature which is submitted by a state agency, board or department, ~~for local government, the judiciary,~~ the Supreme Court or another authorized nonlegislative requester only if the request is in a subject related to the function of the requester.

2. The Legislative Counsel shall not:

(a) Assign a number to a request for the drafting of a bill or resolution for any session of the Legislature to establish the priority of the request until sufficient detail has been received to allow complete drafting of the legislative measure.

(b) Honor a request to change the subject matter of a request for the drafting of a bill or resolution for any session of the Legislature after it has been submitted for drafting.

(c) Honor a request for the drafting of a bill or resolution for any session of the Legislature which has been combined in violation of Section 17 of Article 4 of the Nevada Constitution.

**Sec. 2. NRS 218.241 is hereby amended to read as follows:**

218.241 1. Upon request made within the time allowed and limits established pursuant to NRS 218.240 to 218.255, inclusive, the Legislative Counsel shall advise any agency or officer of the Executive Branch of the State Government ~~[, and any county, school district or city.]~~ as to the preparation of measures to be submitted to the Legislature.

2. To ensure the greatest possible equity in the handling of requests, drafting must proceed as follows:

(a) Requests for legislative measures from each agency or officer of the Executive Branch of the State Government ~~for from a county, school district or city]~~ must, insofar as is possible, be acted upon in the order in which they are received, unless a different priority is designated by the requester.

(b) As soon as an agency or officer of the Executive Branch of the State Government has requested 10 legislative measures for any session, the Legislative Counsel may request the agency or officer to designate the priority for each succeeding request.

~~[(e) Not later than 2 weeks before the commencement of a regular session of the Legislature, any county, school district or city which has requested the preparation of more than one legislative measure for that session shall submit to the Legislative Counsel a list which designates the order of priority for each request.]~~

↪ The priority designated pursuant to this subsection must guide the Legislative Counsel in acting upon the requests of the respective agencies and officers of the Executive Branch of the State Government ~~[and the counties, school districts and cities]~~ to ensure each agency and officer, ~~[and each county, school district and city,]~~ as nearly as is possible, an equal rank.

**Sec. 3. NRS 218.2423 is hereby amended to read as follows:**

218.2423 1. Each:

(a) Incumbent Assemblyman may request the drafting of not more than ~~[5]~~ 6 legislative measures submitted to the Legislative Counsel on or before September 1 preceding the commencement of a regular session of the Legislature and not more than 5 legislative measures submitted to the Legislative Counsel after September 1 but on or before December 15 preceding the commencement of a regular session of the Legislature.

(b) Incumbent Senator may request the drafting of not more than ~~[10]~~ 12 legislative measures submitted to the Legislative Counsel on or before September 1 preceding the commencement of a regular session of the Legislature and not more than 10 legislative measures submitted to the Legislative Counsel after September 1 but on or before December 15 preceding the commencement of a regular session of the Legislature.

(c) Newly elected Assemblyman may request the drafting of not more than 5 legislative measures submitted to the Legislative Counsel on or before December 15 preceding the commencement of a regular session of the Legislature.

(d) Newly elected Senator may request the drafting of not more than 10 legislative measures submitted to the Legislative Counsel on or before December 15 preceding the commencement of a regular session of the Legislature.

2. In addition to the number authorized pursuant to subsection 1:

(a) The chairman of each standing committee of the immediately preceding regular legislative session, or a person designated in the place of the chairman by the Speaker of the Assembly or the Majority Leader of the Senate, as the case may be, may request before the date of the general election preceding the commencement of the next regular legislative session the drafting of not more than 1 legislative measure for introduction by the committee in a subject within the jurisdiction of the committee for every ~~[15]~~ 10 legislative measures that were referred to the respective standing committee during the immediately preceding regular legislative session.

(b) A person designated after a general election as a chairman of a standing committee for the next regular legislative session, or a person designated in the place of a chairman by the person designated as the Speaker

of the Assembly or the Majority Leader of the Senate for the next regular legislative session, may request on or before December 15 preceding the commencement of the next regular legislative session the drafting of the remaining number of the legislative measures allowed for the respective standing committee that were not requested by the previous chairman or designee.

**3. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.**

**Sec. 4. NRS 218.2429 is hereby amended to read as follows:**

218.2429 1. The Chairman of the Legislative Commission may request the drafting of not more than 15 legislative measures before the commencement of a regular legislative session, with the approval of the Commission, which relate to the affairs of the Legislature or its employees, including measures requested by the legislative staff.

2. The Chairman of the Interim Finance Committee may request the drafting of not more than 10 legislative measures before the commencement of a regular legislative session, with the approval of the Committee, which relate to matters within the scope of the Committee.

3. Except as otherwise provided by specific statute or concurrent resolution of the Legislature:

(a) Any other legislative committee created by statute may request the drafting of not more than 10 legislative measures which relate to matters within the scope of the committee.

(b) An interim committee which conducts a study or investigation pursuant to subsection 5 of NRS 218.682 may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study or investigation, except that such a committee may request the drafting of additional legislative measures if the Legislative Commission approves each additional request by a majority vote.

(c) Any other committee established by the Legislature which conducts an interim legislative study may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study.

➔ Except as otherwise provided in NRS 218.635, measures authorized to be requested pursuant to this subsection must be submitted to the Legislative Counsel on or before September 1 preceding the commencement of a regular session of the Legislature unless the Legislative Commission authorizes submitting a request after that date.

**4. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.**

**Sec. 5. NRS 218.245 is hereby amended to read as follows:**

218.245 1. Except as otherwise provided in subsections 2 and 5, the Legislative Counsel and the Legal Division of the Legislative Counsel Bureau shall not prepare or assist in the preparation of proposed legislation for any agency or officer of the Executive Branch of the State Government ~~for for a county, school district or city~~ before a regular session of the

Legislature unless the request is approved by the Governor or a designated member of his staff ~~[- or the governing body of the county, school district or city.]~~ and transmitted to the Legislative Counsel on or before September 1 preceding the convening of the session.

2. A request for proposed legislation may be submitted to the Legislative Counsel pursuant to subsection 3 ~~for 4~~ of NRS 218.2455 by the ~~Board of Regents of the University of Nevada,~~ Lieutenant Governor, Secretary of State, Attorney General, State Controller or State Treasurer without the approval of the Governor or a designated member of his staff.

3. After November 1, preceding a legislative session, the Legislative Counsel and the Legal Division of the Legislative Counsel Bureau shall give full priority to the preparation of proposed legislation requested by members of the Legislature.

4. The Legislative Counsel and the Legal Division of the Legislative Counsel Bureau shall not prepare or assist in the preparation of any proposed legislation during any regular session of the Legislature except as authorized by statute or joint rule of the Legislature.

5. An agency or officer of the Executive Branch of the State Government ~~for a county, school district or city,~~ shall not request a Legislator to have legislation drafted on its behalf. The Legislative Commission, when the Legislature is not in session, or a standing committee which has jurisdiction of the subject matter when the Legislature is in session, may, if it finds that exceptional circumstances so warrant, authorize the drafting of legislation requested after the time limited by subsection 1 of this section and subsection 1, ~~or 3 for 4~~ of NRS 218.2455.

**Sec. 6. NRS 218.2455 is hereby amended to read as follows:**

218.2455 1. The Governor or his designated representative may transmit to the Legislative Counsel on or before September 1 preceding a regular legislative session not more than ~~125~~ 100 requests for the drafting of legislative measures approved on behalf of state agencies, boards and departments of the Executive Branch of the State Government pursuant to subsection 1 of NRS 218.245.

2. The Department of Administration may request on or before the 19th day of the legislative session, without limitation, the drafting of as many legislative measures as are necessary to implement the budget proposed by the Governor and to provide for the fiscal management of the State.

3. The following constitutional officers may request the drafting of not more than the following numbers of legislative measures on or before September 1 preceding a regular legislative session:

Lieutenant Governor .....	<del>2</del> <u>1</u>
Secretary of State .....	<del>8</del> <u>5</u>
State Treasurer .....	<del>5</del> <u>2</u>
State Controller .....	<del>5</del> <u>2</u>
Attorney General .....	<del>25</del> <u>15</u>



4. The ~~[Board of Regents of the University of Nevada may request the drafting of not more than 5 legislative measures on behalf of the Nevada System of Higher Education on or before September 1 preceding a regular legislative session.]~~ **measures requested pursuant to subsections 1 and 3 must be prefiled on or before December 15 preceding the regular session. A measure that is not prefiled on or before that date shall be deemed withdrawn.**

~~[Section 4.]~~ **Sec. 7.** NRS 218.247 is hereby amended to read as follows:

218.247 1. The Legislative Counsel and the Legal Division of the Legislative Counsel Bureau shall prepare and assist in the preparation of legislative measures at the request of the Supreme Court if the legislative measures are transmitted to the Legislative Counsel on or before September 1 preceding the commencement of the next regular session of the Legislature. The Supreme Court may transmit to the Legislative Counsel pursuant to this section not more than ~~[16]~~ **10** legislative measures on behalf of the Supreme Court ~~[and district courts of this State and not more than 4 legislative measures on behalf of the municipal courts and Justice Courts of this State.]~~

2. Every requested legislative measure must set forth the substance of the provisions desired or which may be needed with the reasons therefor.

3. ~~[The Legislative Counsel shall transmit any legislative measure prepared pursuant to this section to the Chairman of the Committee on Judiciary of each House at the next regular session of the Legislature.]~~ **Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.**

**Sec. 8.** NRS 218.277 is hereby amended to read as follows:

218.277 1. Any member of the next succeeding regular session of the Legislature may request the Legislative Counsel to prefile any legislative bill or joint resolution that was requested by that Legislator for introduction in the next succeeding regular session of the Legislature.

2. A person designated as a chairman of a standing committee for the next succeeding regular session of the Legislature may request the Legislative Counsel to prefile on behalf of the committee any legislative bill or joint resolution within the jurisdiction of the committee for introduction in the next succeeding regular session of the Legislature.

3. **Measures submitted for prefiling pursuant to subsection 4 of NRS 218.2455 must be randomly divided in equal amounts between the Senate and the Assembly and prefiled on behalf of the appropriate standing committee.**

4. Such bills and joint resolutions must be in such final and correct form for introduction in the Legislature as required by the Nevada Constitution and this chapter.

~~[4.]~~ **5.** The Legislative Counsel shall not prefile a bill or joint resolution requested by:

(a) A member of the Legislature who is not a candidate for reelection until after the general election immediately preceding the regular session of the Legislature.

(b) A member of the Legislature who is elected or reelected to his office at the general election immediately preceding the regular session of the Legislature until he is determined to have received the highest number of votes pursuant to the canvass of votes required by NRS 293.395.

~~{Sec. 2.}~~ **Sec. 9.** NRS 218.278 is hereby amended to read as follows:

218.278 1. The Legislative Counsel shall, upon receipt of requests for prefiling bills and joint resolutions, transmit those bills and resolutions that may be prefiled to the Secretary of the Senate or the Chief Clerk of the Assembly, as appropriate. The Secretary or Chief Clerk shall number the bills and joint resolutions consecutively in the same manner as during regular sessions of the Legislature and is responsible for the safekeeping of such bills and joint resolutions.

2. After a bill or joint resolution has been properly numbered, the Legislative Counsel shall cause the bill or joint resolution to be printed in the same manner as during regular sessions of the Legislature. The bill or joint resolution must contain:

- (a) The name of the introducer;
- (b) The date on which it was prefiled;
- (c) If it was not requested by a member of the Legislature, the name of the entity that requested the preparation of the bill or joint resolution; and
- (d) The standing committee of the Senate or Assembly to which the bill or joint resolution is proposed to be referred. ~~{The standing committee must be determined pursuant to the rules or recommendations for the referral of bills and joint resolutions adopted by the appropriate House during the preceding regular session of the Legislature.}~~

3. The number of copies to be printed must be determined by the Legislative Counsel, and the expenses of printing and mailing must be paid from the Legislative Fund.

4. The Legislative Counsel shall release copies of a prefiled bill or joint resolution to the public.

~~{Sec. 3.}~~ **Sec. 10.** NRS 218.320 is hereby amended to read as follows:

218.320 All bills amended by either House shall be immediately reprinted. New matter shall be indicated by underscoring in the typewritten or other machine-produced copy and italics in the printed copy. Matter to be omitted shall be indicated by brackets in the typewritten or other machine-produced copy and brackets or strike-out type in the printed copy. When a bill is amended in either House, the first or previous markings shall be omitted. However, ~~{in the cases of bills over 32 pages in length, amendments to the titles and preambles of bills, amendments to correct typographical errors, and other amendments which do not change the meaning, intent or significance of a bill,}~~ the reprinting of the bill may be dispensed with on motion carried by a two-thirds majority of the members present. If the

reprinting is so dispensed with, the amendments may be inserted by hand in the printed bill, but the authenticity of each amendment shall be established by endorsement, such endorsement to consist of initials signed on the margin near each amendment by the Secretary of the Senate or by the Chief Clerk of the Assembly, as the case may be.

~~{Sec. 4.}~~ **Sec. 11.** NRS 218.330 is hereby amended to read as follows:

218.330 Whenever a bill or resolution which shall have been passed in one House shall be amended in the other, it shall immediately be reprinted as amended by the House making such amendment or amendments. Such amendment or amendments shall be attached to the bill or resolution so amended and endorsed “adopted” and such amendment or amendments, if concurred in by the House in which such bill or resolution originated, shall be endorsed “concurred in” and such endorsement shall be signed by the Secretary of the Senate or by the Chief Clerk of the Assembly, as the case may be. However, ~~[in the cases of bills over 32 pages in length, amendments to the titles and preambles of bills, amendments to correct typographical errors, and other amendments which do not change the meaning, intent or significance of a bill,]~~ the reprinting of the bill may be dispensed with on motion carried by a two-thirds majority of the members present, but such amendment must be concurred in by the House in which such bill originated. If the reprinting is so dispensed with, the amendments may be inserted by hand in the printed bill, but the authenticity of each amendment shall be established by endorsement, such endorsement to consist of initials signed on the margin near each amendment by the Secretary of the Senate or by the Chief Clerk of the Assembly, as the case may be.

~~{Sec. 5.}~~ **Sec. 12.** NRS 218.340 is hereby amended to read as follows:

218.340 When any bill or resolution is passed by both Houses, the Secretary of the Senate or the Chief Clerk of the Assembly ~~[, upon adjournment or immediately if so directed by the respective House,]~~ shall ~~[immediately]~~ transmit the same to the Legislative Counsel to be enrolled, and shall take his receipt therefor. The receipt shall bear the date of delivery and shall give the bill or resolution number. The fact that the bill or resolution was received by the Legislative Counsel shall be noted as a part of the history of the bill or resolution. When the same shall have been duly and regularly enrolled and delivered to the Governor, as provided by NRS 218.280 to 218.440, inclusive, ~~[and]~~ in all cases where it is required to be so delivered, ~~[and]~~ the fact of such delivery and the date thereof shall also be noted, over the signature of the Legislative Counsel, as a part of the history of the bill or resolution.

**Sec. 13. NRS 218.2413, 218.2415 and 218.2417 are hereby repealed.**

~~{Sec. 6.}~~ **Sec. 14. 1.** This act becomes effective upon passage and approval.

**2. Sections 1 to 8, inclusive, and 13 of this act expire by limitation on June 30, 2009.**

**TEXT OF REPEALED SECTIONS**

**218.2413 Requests by county, school district or city for preparation of legislative measures; notice of duplicate requests.**

1. Except as otherwise provided in subsections 3, 4 and 5, each board of county commissioners, board of trustees of a school district and city council may request the Legislative Counsel and the Legal Division of the Legislative Counsel Bureau to prepare any legislative measure which has been approved by the governing body of the county, school district or city at a public hearing before its submission to the Legislative Counsel Bureau.

2. The Legislative Counsel shall notify the requesting county, school district or city if its request substantially duplicates a request previously submitted by another county, school district or city.

3. The board of county commissioners of a county whose population:

(a) Is 400,000 or more shall not request the preparation of more than 15 legislative measures pursuant to subsection 1 for a regular legislative session. At least one of the measures must be recommended by a metropolitan police department that is located within the county.

(b) Is 100,000 or more but less than 400,000 shall not request the preparation of more than 10 legislative measures pursuant to subsection 1 for a regular legislative session.

(c) Is less than 100,000 shall not request the preparation of more than 2 legislative measures pursuant to subsection 1 for a regular legislative session.

4. The board of trustees of a school district in a county whose population:

(a) Is 400,000 or more shall not request the preparation of more than 5 legislative measures pursuant to subsection 1 for a regular legislative session.

(b) Is 100,000 or more but less than 400,000 shall not request the preparation of more than 2 legislative measures pursuant to subsection 1 for a regular legislative session.

(c) Is less than 100,000 shall not request the preparation of more than 1 legislative measure pursuant to subsection 1 for a regular legislative session.

5. The city council of a city whose population:

(a) Is 100,000 or more shall not request the preparation of more than 4 legislative measures pursuant to subsection 1 for a regular legislative session.

(b) Is less than 100,000 shall not request the preparation of more than 1 legislative measure pursuant to subsection 1 for a regular legislative session.

6. As used in this section, "population" means the current population estimate for that city or county as determined and published by the

Department of Taxation and the demographer employed pursuant to NRS 360.283.

**218.2415** Requests by association of elected officials or association of counties or cities for preparation of legislative measures.

1. An association of elected officials may directly request the Legislative Counsel and the Legal Division of the Legislative Counsel Bureau to prepare no more than 5 legislative measures for a regular legislative session.

2. An association of counties or cities may directly request the Legislative Counsel and the Legal Division of the Legislative Counsel Bureau to prepare no more than 20 legislative measures for a regular legislative session.

3. A request for the drafting of a legislative measure pursuant to this section must be submitted to the Legislative Counsel on or before September 1 preceding the commencement of a regular session of the Legislature.

**218.2417** Preparation of legislative measures for regional planning coalition by Legislative Counsel and Legal Division of Legislative Counsel Bureau.

1. The Legislative Counsel and the Legal Division of the Legislative Counsel Bureau shall prepare and assist in the preparation of legislative measures at the request of a regional planning coalition if the legislative measures are transmitted to the Legislative Counsel on or before September 1 preceding the commencement of the next regular session of the Legislature. A regional planning coalition may transmit to the Legislative Counsel pursuant to this section not more than one legislative measure for a regular legislative session.

2. Every requested legislative measure must set forth the substance of the provisions which are desired or which may be needed with the reasons therefor.

3. As used in this section, “regional planning coalition” has the meaning ascribed to it in NRS 278.0172.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 148.

The following Senate amendment was read:

Amendment No. 669.

AN ACT relating to controlled substances; requiring entities that sell certain products that are precursors to methamphetamine to place such products in an area to which the public does not have direct access, to limit

the quantity of such products sold or transferred to the same person during any calendar day, to maintain a list of sales of such products and to ensure that certain information is entered in that list; prohibiting a person from acquiring more than a certain amount of certain products that are precursors to methamphetamine; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill establishes restrictions on the sale and purchase of products that contain materials that can be used to manufacture methamphetamine.

Section 6 of this bill requires sellers of a product that contains certain materials that can be used to manufacture methamphetamine to keep the product in a locked case or cabinet or behind a store counter so that the public does not have direct access to the product. Section 7 of this bill establishes limits on the quantity of certain chemicals that can be sold to the same person during a calendar day. Section 8 of this bill requires sellers of a product that contains materials that can be used to manufacture methamphetamine to maintain a logbook of sales and transfers of the product and to ensure that certain information is entered in the logbook.

If a seller of a product that contains materials that can be used to manufacture methamphetamine violates section 6, 7 or 8 of this bill, section 9 of this bill provides that the seller is subject to a civil penalty of not more than \$250,000 for each violation. ~~Moreover, if certain sellers knowingly or intentionally violate section 6, 7 or 8, then those sellers are subject to both civil penalties and criminal penalties.~~

Section 10 of this bill prohibits a person from knowingly or intentionally purchasing or otherwise acquiring a certain amount of certain chemicals that can be used to manufacture methamphetamine. A person who violates this provision is subject to criminal penalties.

Section 11 of this bill prohibits a person from knowingly or intentionally entering false information in the logbook. A person who violates this provision is guilty of a category D felony.

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

Section 1. Chapter 453 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. *As used in sections 2 to 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Logbook" means a written or electronic list of each sale or transfer of a product that is a precursor to methamphetamine.*

Sec. 4. *"Product that is a precursor to methamphetamine" means a product that contains ephedrine, pseudoephedrine or phenylpropanolamine or the salts, optical isomers or salts of optical isomers of such chemicals and may be marketed or distributed lawfully in the United States under the*

*Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301 et seq., as a nonprescription drug.*

Sec. 5. "Retail distributor" means a grocery store, general merchandise store, drugstore, pharmacy or other entity or person whose activities as a distributor of a product that is a precursor to methamphetamine are limited exclusively or almost exclusively to sales for personal use by an ultimate user, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.

Sec. 6. A retail distributor shall keep, store or place a product that is a precursor to methamphetamine in a locked case or cabinet or behind a counter so that the public does not have direct access to the product before a sale or transfer is made.

Sec. 7. 1. Except as otherwise provided in subsection 2, a retail distributor shall not:

(a) Sell or transfer to the same person during any calendar day, without regard to the number of transactions, more than 3.6 grams of ephedrine ~~base~~ base, pseudoephedrine base or phenylpropanolamine base or the salts, optical isomers or salts of optical isomers of such chemicals in a product that is a precursor to methamphetamine.

(b) Sell at retail and in nonliquid form a product that is a precursor to methamphetamine, including, without limitation, gel caps, unless:

(1) The product is packaged in blister packs, each blister containing not more than two dosage units; or

(2) If the use of blister packs is technically infeasible, the product is packaged in unit dosage packets or pouches.

2. The provisions of subsection 1 do not apply if, pursuant to 21 U.S.C. § 830(e)(3), the Attorney General of the United States has determined that a product that is a precursor to methamphetamine cannot be used to manufacture methamphetamine and provided by regulation that the product is exempt from the provisions of 21 U.S.C. § 830(d).

Sec. 8. 1. A retail distributor shall maintain a logbook.

2. At the time of a sale or transfer of a product that is a precursor to methamphetamine, a retail distributor shall ensure that the following information is entered in the logbook:

(a) The name of the product sold or transferred;

(b) The quantity of the product sold or transferred;

(c) The name and address of the purchaser or transferee; and

(d) The date and time of the sale or transfer.

3. A retail distributor shall not sell or transfer a product that is a precursor to methamphetamine unless:

(a) The prospective purchaser or transferee:

(1) Presents an identification card that provides a photograph and is issued by the Government of the United States or the government of this

State or any other state, or a document that, with respect to identification, is considered acceptable pursuant to 21 U.S.C. § 830(e)(1); and

(2) Signs his name in the logbook; and

(b) The retail distributor determines that the name entered in the logbook corresponds to the name provided on the identification presented by the prospective purchaser or transferee.

4. The retail distributor must include in the logbook ~~must include a notice~~ or otherwise post or provide to a prospective purchaser or transferee a notice that entering a false statement or representation in the logbook may subject the prospective purchaser or transferee to criminal penalties under state law, as set forth in section 11 of this act, and under federal law, as set forth in 18 U.S.C. § 1001.

5. A retail distributor shall maintain each entry in the logbook for not less than 2 years after the date on which the entry is made.

6. A retail distributor shall not access, use or share the information in the logbook unless the accessing, using or sharing of the information is allowed by federal law or unless the purpose of accessing, using or sharing the information is to ensure compliance with this chapter or to facilitate a product recall to protect the health and safety of the public.

7. Upon a request, which is made for the purpose of enforcing the provisions of sections 2 to 11, inclusive, of this act, by a law enforcement agency of this State or a political subdivision thereof or a law enforcement agency of the Federal Government, a retail distributor shall disclose the information in the logbook to the law enforcement agency.

Sec. 9. ~~{1. Unless a greater penalty is provided in subsection 2, if}~~ If a retail distributor violates any provision of section 6, 7 or 8 of this act, the retail distributor is subject to a civil penalty pursuant to the provisions of NRS 453.553 to 453.5533, inclusive.

~~{2. If a retail distributor knowingly violates any provision of section 6, 7 or 8 of this act after being ordered on two or more prior occasions to pay a civil penalty for violating section 6, 7 or 8 of this act or after two or more prior convictions under this chapter or the law of the United States or of any state, territory or district relating to a controlled substance, or a combination of two or more such prior convictions, have become final, the retail distributor:~~

~~(a) Is subject to a civil penalty pursuant to the provisions of NRS 453.553 to 453.5533, inclusive; and~~

~~(b) Is guilty of a category D felony and shall be punished as provided in NRS 193.130.~~

Sec. 10. 1. Except as otherwise provided in subsection 2, a person shall not knowingly or intentionally purchase, receive or otherwise acquire:

(a) During any calendar day more than 3.6 grams of ephedrine ~~+~~ base, pseudoephedrine base or phenylpropanolamine base or the salts, optical



*isomers or salts of optical isomers of such chemicals in a product that is a precursor to methamphetamine; or*

*(b) During any 30-day period, more than 9 grams of ephedrine ~~or base~~, pseudoephedrine base or phenylpropanolamine base or the salts, optical isomers or salts of optical isomers of such chemicals in a product that is a precursor to methamphetamine.*

*2. The provisions of this section do not apply if the person purchasing, receiving or otherwise acquiring a product that is a precursor to methamphetamine is a pharmacy, practitioner, retail distributor, wholesale distributor or dispenser that is purchasing, receiving or otherwise acquiring the product for the purpose of administering, distributing or dispensing it in a lawful manner.*

*3. A person who violates any of the provisions of this section is guilty of a misdemeanor, except that:*

*(a) If the person violates any of the provisions of this section after a prior conviction under this chapter or the law of the United States or of any state, territory or district relating to a controlled substance has become final, the person is guilty of a gross misdemeanor; and*

*(b) If the person violates any of the provisions of this section after two or more prior convictions under this chapter or the law of the United States or of any state, territory or district relating to a controlled substance, or a combination of two or more such prior convictions, have become final, the person is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

*Sec. 11. Any person who knowingly or intentionally enters a false statement or representation in a logbook is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

*Sec. 12. NRS 453.553 is hereby amended to read as follows:*

*453.553 1. In addition to any criminal penalty imposed for a violation of the provisions of NRS 453.011 to 453.552, inclusive, **and sections 2 to 11, inclusive, of this act**, any person who **violates section 6, 7 or 8 of this act**, unlawfully sells, manufactures, delivers or brings into this State, possesses for sale or participates in any way in a sale of a controlled substance listed in schedule I, II or III or who engages in any act or transaction in violation of the provisions of NRS 453.3611 to 453.3648, inclusive, is subject to a civil penalty for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General or by any district attorney in a court of competent jurisdiction.*

*2. As used in ~~this section and NRS 453.5531, 453.5532 and 453.5533;~~ **NRS 453.553 to 453.5533, inclusive:***

*(a) "Each violation" includes a continuous or repetitive violation arising out of the same act.*

*(b) "Sell" includes exchange, barter, solicitation or receipt of an order, transfer to another for sale or resale and any other transfer for any consideration or a promise obtained directly or indirectly.*

(c) "Substitute" means a substance which:

(1) Was manufactured by a person who at the time was not currently registered with the Secretary of Health and Human Services; and

(2) Is an imitation of or intended for use as a substitute for a substance listed in schedule I, II or III.

Sec. 13. NRS 453.5531 is hereby amended to read as follows:

453.5531 1. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving marijuana, to a civil penalty in an amount:

(a) Not to exceed \$350,000, if the quantity involved is 100 pounds or more, but less than 2,000 pounds.

(b) Not to exceed \$700,000, if the quantity involved is 2,000 pounds or more, but less than 10,000 pounds.

(c) Not to exceed \$1,000,000, if the quantity involved is 10,000 pounds or more.

2. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving a controlled substance, except marijuana, which is listed in schedule I or a substitute therefor, to a civil penalty in an amount:

(a) Not to exceed \$350,000, if the quantity involved is 4 grams or more, but less than 14 grams.

(b) Not to exceed \$700,000, if the quantity involved is 14 grams or more, but less than 28 grams.

(c) Not to exceed \$1,000,000, if the quantity involved is 28 grams or more.

3. The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving a controlled substance which is listed in schedule II or III or a substitute therefor, to a civil penalty in an amount:

(a) Not to exceed \$350,000, if the quantity involved is 28 grams or more, but less than 200 grams.

(b) Not to exceed \$700,000, if the quantity involved is 200 grams or more, but less than 400 grams.

(c) Not to exceed \$1,000,000, if the quantity involved is 400 grams or more.

4. Unless a greater civil penalty is authorized by another provision of this section, the State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving any act or transaction in violation of the provisions of NRS 453.3611 to 453.3648, inclusive, to a civil penalty in an amount not to exceed \$350,000.

**5. *The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving any act or transaction in violation of the provisions of section 6, 7 or 8 of this act, to a civil penalty in an amount not to exceed \$250,000 for each violation.***

Sec. 14. NRS 453.5533 is hereby amended to read as follows:

453.5533 1. A civil action brought pursuant to NRS 453.553 must be brought within 3 years after the conduct in violation of the provisions of NRS

453.011 to 453.552, inclusive, *and sections 2 to 11, inclusive, of this act* occurs.

2. Such a civil action is not barred by a prior acquittal of the defendant in a criminal action arising out of the same act, transaction or occurrence. A final judgment or decree rendered in favor of the State in any criminal proceeding arising out of the same act, transaction or occurrence estops the defendant in a subsequent civil action from denying the essential allegations of the criminal offense.

**Sec. 15. This act becomes effective on July 1, 2007.**

Assemblywoman Leslie moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 148.

Remarks by Assemblywoman Leslie.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 110.

The following Senate amendment was read:

Amendment No. 711.

SUMMARY—~~[Repeals]~~ **Revises** the prospective expiration of the exemption from the property tax levied on the real and personal property of certain apprenticeship programs. (BDR S-75)

AN ACT relating to taxation; ~~[repealing]~~ **revising** the prospective expiration of the exemption from the property tax levied on the real and personal property of certain apprenticeship programs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides an exemption from the taxes levied on the real and personal property of an apprenticeship program if the property is held in trust or owned by a local or state apprenticeship committee. In addition, the apprenticeship program must be registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS and operated by an organization qualified pursuant to 26 U.S.C. § 501(c)(3) or (5). (NRS 361.106) The exemption expires by limitation on July 1, 2007. This

bill ~~[removes the provision which requires the exemption to expire by limitation.]~~ **changes the expiration date from July 1, 2007, to July 1, 2022.**

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

Delete existing sections 1 and 2 of this bill and replace with the following new sections 1 and 2:

**Section 1. Section 2 of chapter 210, Statutes of Nevada 1999, as amended by section 58 of chapter 10, Statutes of Nevada 2001, at page 68, is hereby amended to read as follows:**

Sec. 2. This act becomes effective on July 1, 1999, and expires by limitation on July 1, ~~[2007.]~~ **2022.**

**Sec. 2. This act becomes effective on June 30, 2007.**

Assemblywoman McClain moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 110.

Remarks by Assemblywoman McClain.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 433.

The following Senate amendment was read:

Amendment No. 806.

SUMMARY—Further limits the authority of public bodies to close meetings. (BDR 19-892)

AN ACT relating to meetings of public bodies; providing additional limitations on the authority of public bodies to close meetings; limiting the authority of the Nevada Tax Commission to close certain hearings; **providing a penalty**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that meetings of public bodies be open to the public. (Chapter 241 of NRS) Exceptions to the general rule are allowed by specific statute. (NRS 241.020) Section 1 of this bill provides that if an exception is allowed by specific statute, the meeting may be closed only to the extent specified in the statute and requires that all other portions of the meeting be open and public. Sections 2 and 3 of this bill limit and clarify a specific exception for the Nevada Tax Commission that allows closed hearings on appeals by taxpayers under certain circumstances. (NRS 360.247, 372.750)

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

Section 1. NRS 241.020 is hereby amended to read as follows:

241.020 1. Except as otherwise provided by specific statute, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies. *A meeting that is closed pursuant to a specific statute may only be closed to the extent specified in the statute allowing the meeting to be closed. All other portions of the meeting must be open and public, and the public body must comply with all other provisions of this chapter to the extent not specifically precluded by the specific statute.* Public officers and employees responsible for these meetings shall make reasonable efforts to assist and accommodate physically handicapped persons desiring to attend.

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

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

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

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

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

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

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

3. Minimum public notice is:

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

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

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

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

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

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

- (a) An agenda for a public meeting;
- (b) A proposed ordinance or regulation which will be discussed at the public meeting; and
- (c) Subject to the provisions of subsection 6, any other supporting material provided to the members of the public body for an item on the agenda, except materials:

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

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

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

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

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

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

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

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

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

8. As used in this section, “emergency” means an unforeseen circumstance which requires immediate action and includes, but is not limited to:

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

Sec. 2. NRS 360.247 is hereby amended to read as follows:

360.247 **1.** Except as otherwise provided in this section, any appeal to the Nevada Tax Commission which is taken by a taxpayer concerning his liability for tax must be heard during a session of the Commission which is open to the public. ~~{A}~~ ***Upon request by the taxpayer, a*** hearing on such an

appeal may be closed to the public ~~[if the taxpayer requests that it be closed.]~~  
to receive proprietary or confidential information.

2. As soon as practicable after closing a hearing pursuant to subsection 1, the Nevada Tax Commission shall ~~{make a determination as to}~~ determine whether the ~~{material}~~ information to be presented in the closed hearing is ~~{properly classified as}~~ proprietary or confidential information. If the Commission, in its discretion, determines that the information is ~~{determined}~~ not ~~{to be}~~ proprietary or confidential ~~{+}~~ information, the Commission shall immediately open the hearing to the public. If the Commission, in its discretion, determines that the information is ~~{determined to be properly classified as}~~ proprietary or confidential information ~~{+}~~;

(a) The hearing must remain closed to the public and the Commission shall ~~{proceed to gather}~~ receive the information in a manner that ensures that ~~{each member}~~ the members of the Commission ~~{has}~~ have a reasonable and adequate opportunity to review the information and make any inquiries ~~{the}~~ that any member believes to be necessary and appropriate.

~~+ 3. Upon completion of the information gathering portion of the hearing~~

(b) After the receipt of and opportunity to review the proprietary or confidential information pursuant to ~~{subsection 2,}~~ paragraph (a), the ~~{Nevada Tax}~~ Commission shall ~~{open}~~ reopen the hearing to the public and ~~{begin deliberating in a manner that does not make public any}~~ proceed to deliberate toward a decision regarding issues in the appeal that are not proprietary or confidential ~~{information}~~.

~~+ (c) After a hearing has been reopened pursuant to paragraph (b),~~ the Commission shall, upon the request of any member of the Commission who believes that he cannot conduct meaningful deliberations with the other members of the Commission on the appeal because the appeal concerns proprietary or confidential information, close the hearing for further deliberations. The definitive vote on the appeal must be taken during a hearing of the Commission that is open to the public.

3. The Nevada Tax Commission shall adopt regulations which establish procedures:

(a) By which a taxpayer may request a closed hearing ~~{+}~~ pursuant to this section.

(b) By which the Commission may determine ~~{during a closed hearing}~~ whether information is ~~{appropriately classified as}~~ proprietary or confidential information ~~{+}~~ and

~~(c) For the manner in which the Commission may deliberate and vote on an appeal in an open meeting without making any proprietary or confidential information public.~~

~~5. If the Nevada Tax Commission closes a hearing to receive information, all deliberations must be conducted and all decisions with respect to the appeal must be made in an open and public hearing. The~~

~~Commission must, at a minimum, provide at the public hearing sufficient information for the public to understand the basis and rationale for the decision of the Commission, including, without limitation:~~

- ~~(a) The name of the taxpayer;~~
- ~~(b) The amount of the taxpayer's liability, including interest and penalties;~~
- ~~(c) The type of tax at issue; and~~
- ~~(d) The general nature of the evidence relied upon by the Commission in reaching its decision.~~

~~6. during a closed hearing.~~

4. Not later than 45 days after the Nevada Tax Commission deliberates in a closed hearing and makes a definitive decision on an appeal in a hearing that is open to the public pursuant to this section, the Commission shall prepare an abstract that explains the reasons for the decision, which must be made available to the public upon request. Such an abstract:

(a) Must include, without limitation:

- (1) The name of the taxpayer;
- (2) The amount of the taxpayer's liability, including interest and penalties;
- (3) The type of tax at issue; and
- (4) The general nature of the evidence relied upon by the Commission in reaching its decision.

(b) Must not contain any proprietary or confidential information relating to the taxpayer.

5. A member of the Nevada Tax Commission or an officer, agent or employee of the Department is not subject to any criminal penalty or civil liability for the ~~inadvertent~~ use or publication of proprietary or confidential information ~~disclosed~~ received pursuant to the procedure set forth in subsection 2, regardless of whether the information was received during a closed hearing, ~~conducted pursuant to this section.~~

~~7. 6. The Nevada Tax Commission shall take such actions as it deems necessary to protect the confidentiality of information provided by a taxpayer that the Commission has determined to be proprietary or confidential information, including, without limitation:~~

- ~~(a) Issuing such protective orders as it deems necessary;~~
- ~~(b) Restricting access to any hearing closed to the public and to the records and transcripts of any such hearing, without the prior approval of the Commission; and~~
- ~~(c) Prohibiting any intervenor allowed to attend such a hearing or allowed access to the records and transcripts of such a hearing from disclosing such information without prior authorization from the Commission.~~

7. A person who violates a protective order issued by the Nevada Tax Commission pursuant to subsection 6 is guilty of a misdemeanor, unless a



more severe penalty is prescribed by law for the act that constitutes the violation of the order.

8. As used in this section ~~the~~ “~~proprietary~~”:

(a) “Confidential economic information”:

(1) Means any information which is not available to the public generally, which confers an economic benefit on the holder of the information as a result of its unavailability and which is the subject of reasonable efforts by the taxpayer to maintain its secrecy.

(2) Includes, without limitation, information relating to the amount or source of any income, profits, losses or expenditures of the taxpayer, such as data relating to costs, prices or customers.

(b) “Proprietary or confidential information”:

~~((a))~~ (1) Means:

~~((1))~~ (I) Any trade secret ~~or~~ confidential economic information or business information that is submitted to the Nevada Tax Commission by the taxpayer and ~~designated as~~ is determined to be proprietary or confidential information by the Commission; or

~~((2))~~ (II) Any information ~~declared by~~ that a specific statute declares to be confidential or ~~that~~ prohibits the Commission ~~is prohibited~~ from making public ~~by specific statute~~.

~~((b))~~ (2) Does not include any information that has been published for public distribution or is otherwise ~~generally~~ available to the public generally or in the public domain.

~~As used in this subsection, “confidential economic information” means any information that is not generally known to the public, that confers an economic benefit to the holder specifically because it is not known and that is the subject of reasonable efforts to maintain its secrecy, including, without limitation, information relating to the amount or source of any income, profits, losses or expenditures of the taxpayer, including data relating to costs, prices or the customers of the taxpayer.~~

Sec. 3. NRS 372.750 is hereby amended to read as follows:

372.750 1. Except as otherwise provided in this section ~~or~~ **NRS 360.247**, it is a misdemeanor for any member of the Tax Commission or officer, agent or employee of the Department to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular of them, set forth or disclosed in any return, or to permit any return or copy of a return, or any book containing any abstract or particulars of it to be seen or examined by any person not connected with the Department.

2. The Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

3. The Governor may, by general or special order, authorize the examination of the records maintained by the Department under this chapter by other state officers, by tax officers of another state, by the Federal Government, if a reciprocal arrangement exists, or by any other person. The information so obtained may not be made public except to the extent and in the manner that the order may authorize that it be made public.

4. Upon written request made by a public officer of a local government, the Executive Director shall furnish from the records of the Department, the name and address of the owner of any seller or retailer who must file a return with the Department. The request must set forth the social security number of the owner of the seller or retailer about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. The information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

5. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.

6. Relevant information *that the Tax Commission has determined is not proprietary or confidential information in a hearing conducted pursuant to NRS 360.247* may be disclosed as evidence in an appeal by the taxpayer from a determination of tax due.

7. At any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon a person a penalty for fraud or intent to evade the tax imposed by this chapter on the sale, storage, use or other consumption of any vehicle, vessel or aircraft becomes final or is affirmed by the Commission, any member of the Commission or officer, agent or employee of the Department may publicly disclose the identity of that person and the amount of tax assessed and penalties imposed against him.

**Sec. 4. The provisions of NRS 360.247, as amended by section 2 of this act, do not apply to any appeal to the Nevada Tax Commission taken by a taxpayer concerning his liability for tax that has been heard by the Commission before July 1, 2007.**

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

Assemblywoman McClain moved that the Assembly concur in the Senate amendment to Assembly Bill No. 433.

Remarks by Assemblywoman McClain.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 483.

The following Senate amendment was read:

Amendment No. 1000.

SUMMARY—~~[Revises provisions concerning the enforcement of judgments.]~~ **Makes various changes to provisions pertaining to civil actions.** (BDR 2-1408)

AN ACT relating to ~~[property;]~~ **civil actions; increasing the amount of the homestead exemption;** providing that certain property of a judgment debtor is exempt from execution; **increasing the amount of damages that may be awarded in certain tort actions brought against a governmental entity or its officers or employees;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that, with certain exceptions, in a civil action in which damages were awarded, the prevailing party in the action may obtain a writ of execution to enforce the judgment at any time before the judgment expires. (NRS 21.010) Existing law exempts certain property from such a writ of execution up to a specified monetary value. (NRS 21.090) In addition, existing law protects from a forced sale up to \$350,000 in equity of certain property which is designated as a homestead by a person, except in certain circumstances. (NRS 115.005, 115.010)

Sections 2, 4 and 5 of this bill increase the amount of equity protected in homestead property from \$350,000 to \$450,000. Section 2 ~~[of this bill]~~ also expands the list of the property of a judgment debtor that is exempt from execution to include: (1) certain personal property not to exceed \$1,000 in total value; and (2) any tax refund the judgment debtor receives because of the federal earned income credit or any similar credit under a state law. (NRS 21.090) Sections 1 and 3 of this bill add those new exemptions to the list of exemptions provided in certain notices of execution. (NRS ~~[21.076,]~~ **21.075, 31.045**) **Sections 1 and 3 also revise the contents of a notice of writ of execution and a notice of writ of attachment to reflect the changes in the homestead exemption included in this bill.**

Section 3.5 of this bill increases the limitation on the amount of damages that may be awarded in a tort action brought against a governmental entity or its officers or employees from \$50,000 to \$100,000. (NRS 41.035)

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

Section 1. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property

exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION

YOUR PROPERTY IS BEING ATTACHED OR

YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to ..... (name of person), the judgment creditor. He has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed ~~[\$250,000]~~ **\$450,000**, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. A vehicle, if your equity in the vehicle is less than \$15,000.

11. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

12. Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

13. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

15. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

16. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

17. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

18. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

19. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

20. Payments received as restitution for a criminal act.

**21. *Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.***

**22. *A tax refund received from the earned income credit provided by federal law or a similar state law.***

➡ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to indigent or elderly persons).

#### PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless you or the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The motion for the hearing to determine the issue of exemption must be filed within 10 days after the affidavit claiming exemption is filed. The hearing to determine whether the property or money is exempt must be held within 10 days after the motion for the hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 2. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed \$5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed \$12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed \$4,500 in value, belonging to the judgment debtor to be selected by him.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of himself and his family not to exceed \$10,000 in value.

(e) The cabin or dwelling of a miner or prospector, his cars, implements and appliances necessary for carrying on any mining operations and his mining claim actually worked by him, not exceeding \$4,500 in total value.

(f) Except as otherwise provided in paragraph (o), one vehicle if the judgment debtor's equity does not exceed \$15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (n), (r) and (s), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does not exceed \$15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits,

privileges and immunities so accruing or growing out of the insurance that the \$15,000 bears to the whole annual premium paid.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself and family, where the amount of equity held by the judgment debtor in the home does not exceed ~~(\$250,000)~~ \$450,000 in value and the dwelling is situated upon lands not owned by him.

(n) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(o) Any vehicle owned by the judgment debtor for use by him or his dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(p) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(q) Money, not to exceed \$500,000 in present value, held in:

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(r) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(t) Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person



upon whom the judgment debtor is dependent at the time the payment is received.

(u) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(v) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as restitution for a criminal act.

(x) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

***(y) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed \$1,000 in total value, to be selected by the judgment debtor.***

***(z) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.***

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 3. NRS 31.045 is hereby amended to read as follows:

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013; or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

➡ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION  
YOUR PROPERTY IS BEING ATTACHED OR  
YOUR WAGES ARE BEING GARNISHED

Plaintiff, ..... (name of person), alleges that you owe him money. He has begun the procedure to collect that money. To secure satisfaction of judgment the court has ordered the garnishment of your wages, bank account or other personal property held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed ~~[\$350,000]~~ \$450,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. A vehicle, if your equity in the vehicle is less than \$15,000.

11. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

12. Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

13. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

15. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

16. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

17. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

18. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

19. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

20. Payments received as restitution for a criminal act.

**21. *Personal property, not to exceed \$1,000 in total value, if the property is not otherwise exempt from execution.***

**22. *A tax refund received from the earned income credit provided by federal law or a similar state law.***

➡ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in

determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to the indigent or elderly persons).

#### PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The hearing must be held within 10 days after the motion for a hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you believe your property is exempt. You may also file a motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

#### **Sec. 3.5. NRS 41.035 is hereby amended to read as follows:**

41.035 1. An award for damages in an action sounding in tort brought under NRS 41.031 or against a present or former officer or employee of the State or any political subdivision, immune contractor or State Legislator arising out of an act or omission within the scope of his public duties or employment may not exceed the sum of ~~(\$50,000)~~ \$100,000, exclusive of interest computed from the date of judgment, to or for the benefit of any claimant. An award may not include any amount as exemplary or punitive damages.

2. The limitations of subsection 1 upon the amount and nature of damages which may be awarded apply also to any action sounding in tort and arising from any recreational activity or recreational use of land or water which is brought against:

(a) Any public or quasi-municipal corporation organized under the laws of this State.

(b) Any person with respect to any land or water leased or otherwise made available by that person to any public agency.

(c) Any Indian tribe, band or community whether or not a fee is charged for such activity or use. The provisions of this paragraph do not impair or modify any immunity from liability or action existing on February 26, 1968, or arising after February 26, 1968, in favor of any Indian tribe, band or community.

➔ The Legislature declares that the purpose of this subsection is to effectuate the public policy of the State of Nevada by encouraging the recreational use of land, lakes, reservoirs and other water owned or controlled by any public or quasi-municipal agency or corporation of this State, wherever such land or water may be situated.

**Sec. 4. NRS 115.010 is hereby amended to read as follows:**

115.010 1. The homestead is not subject to forced sale on execution or any final process from any court, except as otherwise provided by subsections 2, 3 and 5, and NRS 115.090 and except as otherwise required by federal law.

2. The exemption provided in subsection 1 extends only to that amount of equity in the property held by the claimant which does not exceed ~~[\$350,000]~~ \$450,000 in value, unless allodial title has been established and not relinquished, in which case the exemption provided in subsection 1 extends to all equity in the dwelling, its appurtenances and the land on which it is located.

3. Except as otherwise provided in subsection 4, the exemption provided in subsection 1 does not extend to process to enforce the payment of obligations contracted for the purchase of the property, or for improvements made thereon, including any mechanic's lien lawfully obtained, or for legal taxes, or for:

(a) Any mortgage or deed of trust thereon executed and given, including, without limitation, any second or subsequent mortgage, mortgage obtained through refinancing, line of credit taken against the property and a home equity loan; or

(b) Any lien to which prior consent has been given through the acceptance of property subject to any recorded declaration of restrictions, deed restriction, restrictive covenant or equitable servitude, specifically including any lien in favor of an association pursuant to NRS 116.3116 or 117.070,

➔ by both husband and wife, when that relation exists.

4. If allodial title has been established and not relinquished, the exemption provided in subsection 1 extends to process to enforce the payment of obligations contracted for the purchase of the property, and for improvements made thereon, including any mechanic's lien lawfully obtained, and for legal taxes levied by a state or local government, and for:

(a) Any mortgage or deed of trust thereon; and

(b) Any lien even if prior consent has been given through the acceptance of property subject to any recorded declaration of restrictions, deed

restriction, restrictive covenant or equitable servitude, specifically including any lien in favor of an association pursuant to NRS 116.3116 or 117.070,

↪ unless a waiver for the specific obligation to which the judgment relates has been executed by all allodial titleholders of the property.

5. Establishment of allodial title does not exempt the property from forfeiture pursuant to NRS 179.1156 to 179.119, inclusive, or 207.350 to 207.520, inclusive.

6. Any declaration of homestead which has been filed before July 1, ~~2005,~~ 2007, shall be deemed to have been amended on that date by extending the homestead exemption commensurate with any increase in the amount of equity held by the claimant in the property selected and claimed for the exemption up to the amount permitted by law on that date, but the increase does not impair the right of any creditor to execute upon the property when that right existed before July 1, ~~2005,~~ 2007.

**Sec. 5. NRS 115.050 is hereby amended to read as follows:**

115.050 1. Whenever execution has been issued against the property of a party claiming the property as a homestead, and the creditor in the judgment makes an oath before the judge of the district court of the county in which the property is situated ~~that~~ that the amount of equity held by the claimant in the property exceeds, to the best of the creditor's information and belief, the sum of ~~(\$350,000)~~ \$450,000, the judge shall, upon notice to the debtor, appoint three disinterested and competent persons as appraisers to estimate and report as to the amount of equity held by the claimant in the property ~~that~~ and if the amount of equity exceeds the sum of ~~(\$350,000)~~ \$450,000, determine whether the property can be divided so as to leave the property subject to the homestead exemption without material injury.

2. If it appears, upon the report, to the satisfaction of the judge that the property can be thus divided, he shall order the excess to be sold under execution. If it appears that the property cannot be thus divided, and the amount of equity held by the claimant in the property exceeds the exemption allowed by this chapter, he shall order the entire property to be sold, and out of the proceeds the sum of ~~(\$350,000)~~ \$450,000 to be paid to the defendant in execution, and the excess to be applied to the satisfaction on the execution. No bid under ~~(\$350,000)~~ \$450,000 may be received by the officer making the sale.

3. When the execution is against a husband or wife, the judge may direct the ~~(\$350,000)~~ \$450,000 to be deposited in court, to be paid out only upon the joint receipt of the husband and wife, and the deposit possesses all the protection against legal process and voluntary disposition by either spouse as did the original homestead.

**Sec. 5.5. The amendatory provisions of section 3.5 of this act apply to a cause of action that accrues on or after October 1, 2007.**

~~[Sec. 4.]~~ **Sec. 6. 1. This section and sections 1, 2, 3, 4 and 5 of this act ~~becomes~~ become effective on July 1, 2007.**

**2. Section 3.5 of this act becomes effective on October 1, 2007.**

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 483.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 55.

The following Senate amendment was read:

Amendment No. 563.

AN ACT relating to court reporting; expanding the definition of “practice of court reporting” to include reporting by the use of voice writing; expanding the definition of “stenographic notes” to include certain records produced by voice writing; revising the circumstances under which a person may be admitted for examination in this State for a certified court reporter’s certificate; establishing designations for certain court reporters; authorizing the use of certain abbreviations by certain court reporters; prohibiting certified court reporters-voice writers from practicing court reporting by using any method of court reporting other than voice writing; requiring an official reporter to make a record of certain proceedings; ~~exempting certain persons who operate sound recording equipment or transcribe sound recordings from the requirement to be a certified court reporter;~~ and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides for the certification of court reporters. (Chapter 656 of NRS) Section 1 of this bill expands the definition of “practice of court reporting” to include the making of a verbatim record of a court proceeding by speaking into a device that either digitally translates the words into text or makes a tape or digital recording of the words. Section 1 also expands the definition of “stenographic notes” to include such a record. Existing law requires applicants for certification as court reporters to have fulfilled one of a number of specified obligations before being permitted to take the certification test. (NRS 656.170) Section 2 of this bill allows a person to take the certification test if the person has passed an examination administered by the National Verbatim Reporters Association or the National Court Reporters Association or has received a certificate from either association, and the examination or certificate has been approved by the Certified Court Reporters’ Board of Nevada.

Current law requires a person who has been issued a certificate of registration as a certified court reporter to be designated a “certified court reporter” and authorizes such a person to use the abbreviation “C.C.R.” in connection with the practice of court reporting. (NRS 656.310) Section 3 of this bill provides that a person who only used voice writing technology to pass the court reporter test be designated a “certified court reporter-voice writer,” and that such a person may use the abbreviation “C.C.R.-V.,” may

not use the abbreviation "C.C.R.," and may only use voice writing in the practice of court reporting.

~~Existing law authorizes a court or judge to appoint or designate certain persons to operate sound recording equipment used to record certain civil and criminal proceedings and certain persons to read and transcribe the recording. (NRS 3.380) Section 5 of this bill provides that each such person appointed or designated to operate sound recording equipment or to transcribe a recording is not required to be a certified court reporter.~~

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

Section 1. NRS 656.030 is hereby amended to read as follows:

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

1. "Board" means the Certified Court Reporters' Board of Nevada.
2. "Certificate" means a certified court reporter's certificate issued under the provisions of this chapter.
3. ~~["Court"]~~ **"Certified court reporter" or "court reporter"** means a person who is technically qualified and registered under this chapter to practice court reporting.
4. "Court reporting firm" means a person who, for compensation, provides or arranges for the services of a court reporter or provides referral services for court reporters.
5. "Designated representative of a court reporting firm" means the person designated to act as the representative of a court reporting firm pursuant to NRS 656.186.
6. "License" means a license issued under the provisions of this chapter to conduct business as a court reporting firm.
7. "Licensee" means a person to whom a license has been issued.
8. "Practice of court reporting" means reporting by the use of **voice writing or** any system of manual or mechanical shorthand writing:
  - (a) Grand jury proceedings;
  - (b) Court proceedings;
  - (c) Pretrial examinations, depositions, motions and related proceedings of like character; or
  - (d) Proceedings of an administrative agency if the final decision of the agency with reference thereto is subject to judicial review.
9. "Stenographic notes" means ~~the~~ :
  - (a) **The** original manually or mechanically produced notes in shorthand or shorthand writing taken by a court reporter while in attendance at a proceeding to report the proceeding ~~the~~ ; **or**
  - (b) **The record produced by the use of voice writing by a court reporter while in attendance at a proceeding.**
10. "Voice writing" means the making of a verbatim record of a proceeding by repeating the words of the speaker into a device that is capable of:



- (a) *Digitally translating the words into text; or*
- (b) *Making a tape or digital recording of those words.*

Sec. 2. NRS 656.170 is hereby amended to read as follows:

656.170 1. Examinations must be held no less than twice a year at such times and places as the Board may designate.

2. No person may be admitted to the examination unless he first presents satisfactory evidence to the Board that he has:

(a) Received a passing grade on the National Court Reporters Association's examination for registered professional reporters ~~††~~ , ***if the Board has approved the examination;***

(b) ***Received a passing grade on the National Verbatim Reporters Association's examination for certified verbatim reporters, if the Board has approved the examination;***

(c) A certificate of satisfactory completion of a prescribed course of study from a school for court reporters which includes English grammar, reading, spelling and vocabulary, medical and legal terminology, transcription, and court reporting at 200 words per minute with an accuracy of 97.5 percent;

~~††(d)~~ (d) A certificate as a registered professional reporter or a certificate of merit from the National Court Reporters Association ~~†~~;

~~††~~ , ***if the Board has approved each such certificate;***

(e) ***A certificate as a certified verbatim reporter or a certificate of merit from the National Verbatim Reporters Association, if the Board has approved each such certificate;***

(f) A valid certificate or license to practice court reporting issued by another state; or

~~††(g)~~ (g) One year of continuous experience as a full-time court reporter using ***voice writing or*** any system of manual or mechanical shorthand writing.

Sec. 3. NRS 656.310 is hereby amended to read as follows:

656.310 1. ~~†Every~~ ***Except as otherwise provided in subsection 2, each*** person to whom a valid existing certificate of registration as a certified court reporter has been issued under this chapter ~~†must~~ :

(a) ***Must*** be designated as a certified court reporter ~~†and not otherwise, and any such registered certified court reporter may.†~~ ;

(b) ***May***, in connection with his practice of court reporting, use the abbreviation "C.C.R." ; ***and***

(c) ***Shall not, in connection with his practice of court reporting, use the abbreviation "C.C.R.-V."***

2. ***Each person to whom a valid existing certificate of registration as a certified court reporter has been issued under this chapter and who has only passed the portion of the examination required pursuant to paragraph (b) of subsection 2 of NRS 656.160 through the use of voice writing:***

(a) ***Must be designated as a certified court reporter-voice writer;***

(b) ***May, in connection with his practice of court reporting, use the abbreviation "C.C.R.-V.";***

(c) *Shall not, in connection with his practice of court reporting, use the abbreviation "C.C.R."; and*

(d) *Shall engage in the practice of court reporting only through the use of voice writing.*

3. No person other than the holder of a valid existing certificate of registration under this chapter may use the title or designation of "certified court reporter," ~~for "C.C.R.,"~~ **"certified court reporter-voice writer," "C.C.R." or "C.C.R.-V.,"** either directly or indirectly, in connection with his profession or business.

~~{2-}~~ 4. Every holder of a certificate shall place the number of his certificate:

(a) On the cover page and certificate page of all transcripts of proceedings; and

(b) On all business cards.

Sec. 4. NRS 3.320 is hereby amended to read as follows:

3.320 1. The judge or judges of any district court may appoint, subject to the provisions of this chapter and other laws as to the qualifications and examinations of the appointee, one certified court reporter, to be known as official reporter of the court or department and to hold office during the pleasure of the judge appointing him. The appointee may be any business organization if the person representing it, who actually performs the reporting service, is a certified court reporter.

2. The official reporter, or any one of them if there are two or more, shall:

(a) At the request of either party or of the court in a civil action or proceeding, and on the order of the court, the district attorney or the attorney for the defendant in a criminal action or proceeding, ~~take down in shorthand~~ **make a record of** all the testimony, the objections made, the rulings of the court, the exceptions taken, all arraignments, pleas and sentences of defendants in criminal cases, and all statements and remarks made by the district attorney or judge, and all oral instructions given by the judge; and

(b) If directed by the court or requested by either party, within such reasonable time after the trial of the case as may be designated by law or, in the absence of any law relating thereto, by the court, write out the ~~shorthand copy,~~ **record**, or such specific portions thereof as may be requested, in plain and legible longhand, or by typewriter or other printing machine. The reporter shall certify to that copy as being correctly reported and transcribed ~~{-}~~ and, when directed by the law or court, **shall** file it with the clerk of the court.

Sec. 5. NRS 3.380 is hereby amended to read as follows:

3.380 1. The judge or judges of any district court may, with the approval of the board of county commissioners of any one or more of the counties comprising such district, in addition to the appointment of a court reporter as in this chapter provided, enter an order for the installation of

sound recording equipment for use in any of the instances recited in NRS 3.320, for the recording of any civil and criminal proceedings, testimony, objections, rulings, exceptions, arraignments, pleas, sentences, statements and remarks made by the district attorney or judge, oral instructions given by the judge and any other proceedings occurring in civil or criminal actions or proceedings, or special proceedings whenever and wherever and to the same extent as any of such proceedings have heretofore under existing statutes been recorded by the official reporter or any special reporter or any reporter pro tempore appointed by the court.

2. For the purpose of operating such sound recording equipment, the court or judge may appoint or designate the official reporter or a special reporter or reporter pro tempore or the county clerk or clerk of the court or deputy clerk. The person so operating such sound recording equipment ~~is not required to be a certified court reporter and~~ shall subscribe to an oath that he will well and truly operate the equipment so as to record all of the matters and proceedings.

3. The court may then designate the person operating such equipment or any other competent person to read the recording and to transcribe it into typewriting. The person transcribing the recording ~~is not required to be a certified court reporter and~~ shall subscribe to an oath that he has truly and correctly transcribed it.

4. The transcript may be used for all purposes for which transcripts have heretofore been received and accepted under then existing statutes, including transcripts of testimony and transcripts of proceedings as constituting bills of exceptions or part of the bill of exceptions on appeals in all criminal cases and transcripts of the evidence or proceedings as constituting the record on appeal in civil cases and including transcripts of preliminary hearings before justices of the peace and other committing magistrates, and are subject to correction in the same manner as transcripts under existing statutes.

5. In civil and criminal cases when the court has ordered the use of such sound recording equipment, any party to the action, at his own expense, may provide a certified court reporter to ~~take down in shorthand~~ **make a record of** and transcribe all the matters of the proceeding. In such a case, the record prepared by sound recording is the official record of the proceedings, unless it fails or is incomplete because of equipment or operational failure, in which case the record prepared by the certified court reporter shall be deemed, for all purposes, the official record of the proceedings.

Sec. 6. This act becomes effective on July 1, 2007.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 55.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 90.

The following Senate amendment was read:

Amendment No. 662.

AN ACT relating to crimes; prohibiting a person from engaging in certain acts to cause the results of a test for genetic identification which is given to determine paternity to be inaccurate; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill creates the crime of paternity fraud, making it a **gross** misdemeanor to engage in certain acts which are intended to make the results of a test given for genetic identification to determine the paternity of a child to be inaccurate.

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

Section 1. Chapter 201 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. A person is guilty of paternity fraud if he:**

***(a) Is ordered by a court to submit, or agrees to submit, to a test for genetic identification to determine the paternity of a child and knowingly assists, aids, abets, solicits or conspires with another person to have someone other than himself submit to the test for the purpose of preventing a determination that he is the father of the child; or***

***(b) Submits to a test for genetic identification to determine the paternity of a child in place of the person who has been ordered to submit, or who has agreed to submit, to a test for genetic identification to determine the paternity of a child for the purpose of preventing a determination that the person for whom he is taking the test is the father of the child.***

**2. A person who violates this section is guilty of a gross misdemeanor.**

Assemblyman Anderson moved that the Assembly concur in the Senate Amendment No. 662 to Assembly Bill No. 90.

Remarks by Assemblyman Anderson.

Motion carried.

The following Senate amendment was read:

Amendment No. 762.

AN ACT relating to crimes; prohibiting a person from engaging in certain acts to cause the results of a test for genetic identification which is given to determine paternity to be inaccurate; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill creates the crime of paternity fraud, making it a gross misdemeanor to engage in certain acts which are intended to make the results of a test given for genetic identification to determine the paternity of a child to be inaccurate.

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

Section 1. Chapter 201 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. A person is guilty of paternity fraud if ~~he~~ the person:**

**(a) Is ordered by a court to submit, or agrees to submit, to a test for genetic identification to determine the paternity of a child and knowingly assists, aids, abets, solicits or conspires with another person to have someone other than himself submit to the test for the purpose of preventing a determination that he is the father of the child; ~~or~~**

**(b) Submits to a test for genetic identification to determine the paternity of a child in place of the person who has been ordered to submit, or who has agreed to submit, to a test for genetic identification to determine the paternity of a child for the purpose of preventing a determination that the person for whom he is taking the test is the father of the child ~~or~~; or**

**(c) Knowingly assists, aids, abets, solicits or conspires with another person;**

**(1) To commit a violation of paragraph (a) or (b); or**

**(2) To render inaccurate the results of a test for genetic identification to determine the paternity of a child.**

**2. A person who violates this section is guilty of a gross misdemeanor.**

Assemblyman Anderson moved that the Assembly concur in the Senate Amendment No. 762 to Assembly Bill No. 90.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 112.

The following Senate amendment was read:

Amendment No. 665.

AN ACT relating to protective orders; expanding the circumstances which prohibit a court from admitting a person who is arrested for violating an order for protection against domestic violence to bail sooner than 12 hours after his arrest; applying the same standards for not admitting a person to bail sooner than 12 hours after his arrest to a person arrested for violating an order for protection against stalking, aggravated stalking or harassment; establishing the amount of bail that the arrested person must post to be released for such an offense when the amount has not otherwise been established by the court or magistrate; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a court from admitting to bail a person who is arrested for violating an order for protection against domestic violence, whether the person is a child or an adult, if the arresting officer determines that the violation of the order was accompanied by a direct or indirect threat

of harm. (NRS 62C.020, 125.555, 178.484) Sections 2 and 3 of this bill further prohibit a court from admitting a person to bail sooner than 12 hours after arrest if the person ~~is under the influence of alcohol or a controlled substance or~~ has previously violated an order for protection ~~[-]~~ **or has a certain concentration of alcohol in his blood or breath or a certain amount of a prohibited substance in his blood or urine at the time of, or within 2 hours after, the violation.** (NRS 62C.020, 125.555) Sections 2 and 5 of this bill make the circumstances requiring the 12-hour hold of a person who violates an order for protection against domestic violence applicable to a person arrested for violating an order for protection against stalking, aggravated stalking or harassment. (NRS 62C.020, 178.484)

Existing law requires notice to be provided to a person who is arrested for violating an order for protection against domestic violence and to the alleged victim of such a person stating the circumstances under which such a person may not be admitted to bail sooner than 12 hours after arrest. (NRS 33.030, 171.1225) Sections 1 and 4 of this bill add the new circumstances to that notice. Section 7 of this bill further requires such notice to be included with a temporary or extended order for protection against stalking, aggravated stalking or harassment. (NRS 200.591)

Section 5 of this bill further makes existing law which establishes the amount of bail that a person must post before being admitted to bail if the person is held for more than 12 hours after his arrest for violating an order for protection against domestic violence without appearing personally before a magistrate or without the amount of bail otherwise being established by a magistrate or a court applicable to a person who violates an order for protection against stalking, aggravated stalking or harassment. (NRS 178.484)

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

Section 1. NRS 33.030 is hereby amended to read as follows:

33.030 1. The court by a temporary order may:

- (a) Enjoin the adverse party from threatening, physically injuring or harassing the applicant or minor child, either directly or through an agent;
- (b) Exclude the adverse party from the applicant's place of residence;
- (c) Prohibit the adverse party from entering the residence, school or place of employment of the applicant or minor child and order him to stay away from any specified place frequented regularly by them;
- (d) If it has jurisdiction under chapter 125A of NRS, grant temporary custody of the minor child to the applicant; and
- (e) Order such other relief as it deems necessary in an emergency situation.

2. The court by an extended order may grant any relief enumerated in subsection 1 and:

(a) Specify arrangements for visitation of the minor child by the adverse party and require supervision of that visitation by a third party if necessary; and

(b) Order the adverse party to:

(1) Avoid or limit communication with the applicant or minor child;

(2) Pay rent or make payments on a mortgage on the applicant's place of residence or pay for the support of the applicant or minor child if he is found to have a duty to support the applicant or minor child; and

(3) Pay all costs and fees incurred by the applicant in bringing the action.

3. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.

4. A temporary or extended order must specify, as applicable, the county and city, if any, in which the residence, school, child care facility or other provider of child care, and place of employment of the applicant or minor child are located.

5. A temporary or extended order must provide notice that a person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after his arrest if ~~the~~:

~~(a) The person is under the influence of alcohol or a controlled substance;~~

~~(b) The person has previously violated a temporary or extended order for protection; or~~

~~(c) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm to~~

**(b) The person has previously violated a temporary or extended order for protection; or**

**(c) At the time of the violation or within 2 hours after the violation, the person has:**

**(1) A concentration of alcohol of 0.08 or more in his blood or breath;**  
**or**

**(2) An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.**

Sec. 2. NRS 62C.020 is hereby amended to read as follows:

62C.020 1. A child must not be released from custody sooner than 12 hours after the child is taken into custody if the child is taken into custody for committing a battery that constitutes domestic violence pursuant to NRS 33.018.

2. A child must not be released from custody sooner than 12 hours after the child is taken into custody if ~~the~~

~~(a) The~~ **the** child is taken into custody for violating a temporary or extended order for protection against domestic violence issued pursuant to

NRS 33.017 to 33.100, inclusive, or for violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS ~~and~~

~~(b) or for violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 and:~~

~~(a) The child is under the influence of alcohol or a controlled substance;~~

~~(b) The child has previously violated a temporary or extended order for protection of the type for which he has been arrested; or~~

~~(c) The~~ peace officer or probation officer who has taken the child into custody determines that such a violation is accompanied by a direct or indirect threat of harm ~~to~~:

(b) The child has previously violated a temporary or extended order for protection of the type for which he has been arrested; or

(c) At the time of the violation or within 2 hours after the violation, the child has:

(1) A concentration of alcohol of 0.08 or more in his blood or breath;  
or

(2) An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.

3. For the purposes of this section, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.

Sec. 3. NRS 125.555 is hereby amended to read as follows:

125.555 1. A restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence which is issued in an action or proceeding brought pursuant to this title must provide notice that a person who is arrested for violating the order or injunction will not be admitted to bail sooner than 12 hours after his arrest if ~~the~~:

~~(a) The person is under the influence of alcohol or a controlled substance;~~

~~(b) The person has previously violated a temporary or extended order for protection; or~~

~~(c) The~~ arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm ~~to~~:

(b) The person has previously violated a temporary or extended order for protection; or

(c) At the time of the violation or within 2 hours after the violation, the person has:

(1) A concentration of alcohol of 0.08 or more in his blood or breath;  
or



**(2) An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.**

2. For the purposes of this section, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.

Sec. 4. NRS 171.1225 is hereby amended to read as follows:

171.1225 1. When investigating an act of domestic violence, a peace officer shall:

(a) Make a good faith effort to explain the provisions of NRS 171.137 pertaining to domestic violence and advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community.

(b) Provide a person suspected of being the victim of an act of domestic violence with a written copy of the following statements:

(1) My name is officer ..... (naming the investigating officer). Nevada law requires me to inform you of the following information.

(2) If I have probable cause to believe that a battery has been committed against you, your minor child or the minor child of the person believed to have committed the battery in the last 24 hours by your spouse, your former spouse, any other person to whom you are related by blood or marriage, a person with whom you are or were actually residing, a person with whom you have had or are having a dating relationship or a person with whom you have a child in common, I am required, unless mitigating circumstances exist, to arrest the person suspected of committing the act.

(3) If I am unable to arrest the person suspected of committing the battery, you have the right to request that the prosecutor file a criminal complaint against the person. I can provide you with information on this procedure. If convicted, the person who committed the battery may be placed on probation, ordered to see a counselor, put in jail or fined.

(4) The law provides that you may seek a court order for the protection of you or your minor children against further threats or acts of domestic violence. You do not need to hire a lawyer to obtain such an order for protection.

(5) An order for protection may require the person who committed or threatened the act of domestic violence against you to:

(I) Stop threatening, harassing or injuring you or your children;

(II) Move out of your residence;

(III) Stay away from your place of employment;

(IV) Stay away from the school attended by your children;

(V) Stay away from any place you or your children regularly go; and

(VI) Avoid or limit all communication with you or your children.

(6) A court may make future orders for protection which award you custody of your children and require the person who committed or threatened the act of domestic violence against you to pay:

(I) The rent or mortgage due on the place in which you live;

(II) The amount of money necessary for the support of your children; and

(III) Part or all of the costs incurred by you in obtaining the order for protection.

(7) To get an order for protection, go to room number .... (state the room number of the office at the court) at the court, which is located at ..... (state the address of the court). Ask the clerk of the court to provide you with the forms for an order of protection.

(8) If the person who committed or threatened the act of domestic violence against you violates the terms of an order for protection, he may be arrested and, if ~~the~~:

~~(I) The person is under the influence of alcohol or a controlled substance;~~

~~(II) The person has previously violated a temporary or extended order for protection; or~~

~~(III) The~~ arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm ~~to~~:

**(II) The person has previously violated a temporary or extended order for protection; or**

**(III) At the time of the violation or within 2 hours after the violation, the person has a concentration of alcohol of 0.08 or more in his blood or breath or an amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.**

➡ he will not be admitted to bail sooner than 12 hours after his arrest.

(9) You may obtain emergency assistance or shelter by contacting your local program against domestic violence at ..... (state name, address and telephone number of local program) or you may call, without charge to you, the Statewide Program Against Domestic Violence at ..... (state toll-free telephone number of Statewide Program).

2. As used in this section, “act of domestic violence” means any of the following acts committed by a person against his spouse, former spouse, any other person to whom he is related by blood or marriage, a person with whom he is or was actually residing, a person with whom he has had or is having a dating relationship, a person with whom he has a child in common, the minor child of any of those persons or his minor child:

(a) A battery.

(b) An assault.

(c) Compelling the other by force or threat of force to perform an act from which he has the right to refrain or to refrain from an act which he has the right to perform.

- (d) A sexual assault.
- (e) A knowing, purposeful or reckless course of conduct intended to harass the other. Such conduct may include, but is not limited to:
  - (1) Stalking.
  - (2) Arson.
  - (3) Trespassing.
  - (4) Larceny.
  - (5) Destruction of private property.
  - (6) Carrying a concealed weapon without a permit.
- (f) False imprisonment.
- (g) Unlawful entry of the other's residence, or forcible entry against the other's will if there is a reasonably foreseeable risk of harm to the other from the entry.

3. The failure of a peace officer to carry out the requirements set forth in subsection 1 is not a defense in a criminal prosecution for the commission of an act of domestic violence, nor may such an omission be considered as negligence or as causation in any civil action against the peace officer or his employer.

4. As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

Sec. 5. NRS 178.484 is hereby amended to read as follows:

178.484 1. Except as otherwise provided in this section, a person arrested for an offense other than murder of the first degree must be admitted to bail.

2. A person arrested for a felony who has been released on probation or parole for a different offense must not be admitted to bail unless:

- (a) A court issues an order directing that the person be admitted to bail;
- (b) The State Board of Parole Commissioners directs the detention facility to admit the person to bail; or
- (c) The Division of Parole and Probation of the Department of Public Safety directs the detention facility to admit the person to bail.

3. A person arrested for a felony whose sentence has been suspended pursuant to NRS 4.373 or 5.055 for a different offense or who has been sentenced to a term of residential confinement pursuant to NRS 4.3762 or 5.076 for a different offense must not be admitted to bail unless:

- (a) A court issues an order directing that the person be admitted to bail; or
- (b) A department of alternative sentencing directs the detention facility to admit the person to bail.

4. A person arrested for murder of the first degree may be admitted to bail unless the proof is evident or the presumption great by any competent court or magistrate authorized by law to do so in the exercise of discretion, giving due weight to the evidence and to the nature and circumstances of the offense.

5. A person arrested for a battery that constitutes domestic violence pursuant to NRS 33.018 must not be admitted to bail sooner than 12 hours after his arrest. If the person is admitted to bail more than 12 hours after his arrest, ~~[pursuant to subsection 5 of NRS 171.178,]~~ without appearing personally before a magistrate, or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:

(a) Three thousand dollars, if the person has no previous convictions of battery that constitute domestic violence pursuant to NRS 33.018 and there is no reason to believe that the battery for which he has been arrested resulted in substantial bodily harm;

(b) Five thousand dollars, if the person has:

(1) No previous convictions of battery that constitute domestic violence pursuant to NRS 33.018, but there is reason to believe that the battery for which he has been arrested resulted in substantial bodily harm; or

(2) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018, but there is no reason to believe that the battery for which he has been arrested resulted in substantial bodily harm; or

(c) Fifteen thousand dollars, if the person has:

(1) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018 and there is reason to believe that the battery for which he has been arrested resulted in substantial bodily harm; or

(2) Two or more previous convictions of battery that constitute domestic violence pursuant to NRS 33.018.

↪ The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court, or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018 if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.

6. A person arrested for violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or for violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS , *or for violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591* must not be admitted to bail sooner than 12 hours after his arrest if ~~the~~ :

~~(a) The person is under the influence of alcohol or a controlled substance;~~

~~(b) If the person has previously violated a temporary or extended order for protection of the type for which he has been arrested; or~~

~~(c) The~~ arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm ~~to~~;

**(b) The person has previously violated a temporary or extended order for protection of the type for which he has been arrested; or**

**(c) At the time of the violation or within 2 hours after the violation, the person has:**

**(1) A concentration of alcohol of 0.08 or more in his blood or breath;**  
**or**

**(2) An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.**

7. If ~~the~~ a person is admitted to bail more than 12 hours after his arrest, pursuant to subsection ~~5 of NRS 171.178,~~ 6, without appearing personally before a magistrate, or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:

(a) Three thousand dollars, if the person has no previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS ~~171~~, ***or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591;***

(b) Five thousand dollars, if the person has one previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, ~~171~~ ***or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591; or***

(c) Fifteen thousand dollars, if the person has two or more previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS ~~171~~, ***or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591.***

➡ The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court, or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of violating a temporary or extended order for protection against domestic

violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, *or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591* if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.

~~{7.}~~ **8.** The court may, before releasing a person arrested for an offense punishable as a felony, require the surrender to the court of any passport the person possesses.

~~{8.}~~ **9.** Before releasing a person arrested for any crime, the court may impose such reasonable conditions on the person as it deems necessary to protect the health, safety and welfare of the community and to ensure that the person will appear at all times and places ordered by the court, including, without limitation:

(a) Requiring the person to remain in this State or a certain county within this State;

(b) Prohibiting the person from contacting or attempting to contact a specific person or from causing or attempting to cause another person to contact that person on his behalf;

(c) Prohibiting the person from entering a certain geographic area; or

(d) Prohibiting the person from engaging in specific conduct that may be harmful to his own health, safety or welfare, or the health, safety or welfare of another person.

↪ In determining whether a condition is reasonable, the court shall consider the factors listed in NRS 178.4853.

~~{9.}~~ **10.** If a person fails to comply with a condition imposed pursuant to subsection ~~{8.}~~ **9**, the court may, after providing the person with reasonable notice and an opportunity for a hearing:

(a) Deem such conduct a contempt pursuant to NRS 22.010; or

(b) Increase the amount of bail pursuant to NRS 178.499.

~~{10.}~~ **11.** An order issued pursuant to this section that imposes a condition on a person admitted to bail must include a provision ordering any law enforcement officer to arrest the person if he has probable cause to believe that the person has violated a condition of his bail.

~~{11.}~~ **12.** Before a person may be admitted to bail, he must sign a document stating that:

(a) He will appear at all times and places as ordered by the court releasing him and as ordered by any court before which the charge is subsequently heard;

(b) He will comply with the other conditions which have been imposed by the court and are stated in the document; and

(c) If he fails to appear when so ordered and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

↪ The signed document must be filed with the clerk of the court of competent jurisdiction as soon as practicable, but in no event later than the next business day.

~~{12}~~ **13.** If a person admitted to bail fails to appear as ordered by a court and the jurisdiction incurs any cost in returning the person to the jurisdiction to stand trial, the person who failed to appear is responsible for paying those costs as restitution.

~~{13}~~ **14.** For the purposes of subsection 6, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.

Sec. 6. NRS 178.4851 is hereby amended to read as follows:

178.4851 1. Upon a showing of good cause, a court may release without bail any person entitled to bail if it appears to the court that it can impose conditions on the person that will adequately protect the health, safety and welfare of the community and ensure that he will appear at all times and places ordered by the court.

2. In releasing a person without bail, the court may impose such conditions as it deems necessary to protect the health, safety and welfare of the community and to ensure that he will appear at all times and places ordered by the court, including, without limitation, any condition set forth in subsection ~~{8}~~ **9** of NRS 178.484.

3. Upon a showing of good cause, a sheriff or chief of police may release without bail any person charged with a misdemeanor pursuant to standards established by a court of competent jurisdiction.

4. Before a person may be released without bail, he must file with the clerk of the court of competent jurisdiction a signed document stating that:

(a) He will appear at all times and places as ordered by the court releasing him and as ordered by any court before which the charge is subsequently heard;

(b) He will comply with the other conditions which have been imposed by the court and are stated in the document;

(c) If he fails to appear when so ordered and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings; and

(d) He understands that any court of competent jurisdiction may revoke the order of release without bail and may order him into custody or require him to furnish bail or otherwise ensure the protection of the health, safety and welfare of the community or his appearance.

5. If a jurisdiction incurs any costs in returning a person to the jurisdiction to stand trial, the person failing to appear is responsible for paying those costs as restitution.

6. An order issued pursuant to this section that imposes a condition on a person who is released without bail must include a provision ordering a law enforcement officer to arrest the person if he has probable cause to believe that the person has violated a condition of his release.

Sec. 7. NRS 200.591 is hereby amended to read as follows:

200.591 1. In addition to any other remedy provided by law, a person who reasonably believes that the crime of stalking, aggravated stalking or harassment is being committed against him by another person may petition any court of competent jurisdiction for a temporary or extended order directing the person who is allegedly committing the crime to:

(a) Stay away from the home, school, business or place of employment of the victim of the alleged crime and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged crime and any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.

(c) Comply with any other restriction which the court deems necessary to protect the victim of the alleged crime or to protect any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.

2. If a defendant charged with a crime involving harassment, stalking or aggravated stalking is released from custody before trial or is found guilty at the trial, the court may issue a temporary or extended order or provide as a condition of the release or sentence that the defendant:

(a) Stay away from the home, school, business or place of employment of the victim of the alleged crime and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged crime and any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.

(c) Comply with any other restriction which the court deems necessary to protect the victim of the alleged crime or to protect any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.

3. A temporary order may be granted with or without notice to the adverse party. An extended order may be granted only after:

(a) Notice of the petition for the order and of the hearing thereon is served upon the adverse party pursuant to the Nevada Rules of Civil Procedure; and

(b) A hearing is held on the petition.

4. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.

5. Unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order, any person who intentionally violates:

(a) A temporary order is guilty of a gross misdemeanor.



(b) An extended order is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. Any court order issued pursuant to this section must:

- (a) Be in writing;
- (b) Be personally served on the person to whom it is directed; and
- (c) Contain the warning that violation of the order:
  - (1) Subjects the person to immediate arrest.
  - (2) Is a gross misdemeanor if the order is a temporary order.
  - (3) Is a category C felony if the order is an extended order.

7. *A temporary or extended order issued pursuant to this section must provide notice that a person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after his arrest if:*

~~(a) The person is under the influence of alcohol or a controlled substance;~~

~~(b) The person has previously violated a temporary or extended order for protection; or~~

~~(c) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm to;~~

(b) The person has previously violated a temporary or extended order for protection; or

(c) At the time of the violation or within 2 hours after the violation, the person has:

(1) A concentration of alcohol of 0.08 or more in his blood or breath;  
or

(2) An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 112.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 137.

The following Senate amendment was read:

Amendment No. 754.

AN ACT relating to crimes; increasing the penalty for certain crimes concerning acts of terrorism; making it a crime to deliver a hoax substance that appears to be a weapon of mass destruction or appears to be certain dangerous substances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it a category B felony to engage in certain acts of terrorism. (NRS 202.448) Section 5 of this bill increases the penalty for engaging in such acts of terrorism from imprisonment for a minimum term of

1 year and a maximum term of 6 years to a minimum term of 2 years and a maximum term of 20 years. Section 3 of this bill creates a new crime for delivering a "hoax substance" which is any item that to a reasonable person appears to be a weapon of mass destruction, biological agent, chemical agent, radioactive agent or other lethal agent, any toxin or any delivery system for use as a weapon . ~~[and imposes the same penalties as for other acts of terrorism.]~~

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

Section 1. Chapter 202 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *"Hoax substance" means any item that appears to a reasonable person to be a weapon of mass destruction, biological agent, chemical agent, radioactive agent or other lethal agent, any toxin or any delivery system for use as a weapon.*

Sec. 3. 1. *A person shall not, through the use of any means of delivery, including, without limitation, mail, package delivery services, mail couriers or drop payment boxes, disperse or cause to be dispersed any hoax substance with the intent to:*

*(a) Injure, intimidate, alarm or cause mental anguish to any person, whether or not any person is actually injured, intimidated, alarmed or caused mental anguish thereby;*

*(b) Cause any reasonable person to believe that the person was contaminated by or exposed to a biological agent, chemical agent, radioactive agent or other lethal agent, any toxin or any nuclear or explosive substance;*

*(c) Cause panic or civil unrest, whether or not such panic or civil unrest actually occurs;*

*(d) Extort or profit thereby, whether or not the extortion is actually successful or any profit actually occurs; or*

*(e) Interfere with the operations of or cause economic or other damage to any person or business, whether or not such interference or damage actually occurs.*

2. ~~{A}~~ Except as otherwise provided in subsection 3, a person who violates any provision of subsection 1 is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. Unless a greater penalty is provided by specific statute, if a person violates any provision of subsection 1 and the violation proximately causes the death of, or substantial bodily harm to, any other person, the person 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 20 years, and may be further punished by a fine of not more than \$5,000.

4. In addition to any other penalty, the court shall order a person who violates any provision of subsection 1 to pay restitution to any public agency for any expenses of a response to a hoax substance that arise from the violation.

5. As used in this section:

(a) "Expense of a response to a hoax substance" includes, without limitation, the reasonable costs incurred by a public agency in making an appropriate response to or investigation of a hoax substance, including, without limitation, the salary or wages of any person responding to or investigating a hoax substance, the deemed wages of any volunteer of a public agency participating in the response or investigation, the costs for use or operation of any equipment and the costs for the use or expenditure of any resources, fuel or other materials.

(b) "Public agency" means an agency, bureau, board, commission, department or division of the State of Nevada or a political subdivision of the State of Nevada that provides police, fire-fighting, rescue or emergency medical services.

Sec. 4. NRS 202.441 is hereby amended to read as follows:

202.441 As used in NRS 202.441 to 202.448, inclusive, **and sections 2 and 3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 202.4415 to 202.4445, inclusive, **and section 2 of this act** have the meanings ascribed to them in those sections.

Sec. 5. NRS 202.448 is hereby amended to read as follows:

202.448 1. A person shall not, through the use of any means of oral, written or electronic communication, knowingly make any threat or convey any false information concerning an act of terrorism or the presence, development, manufacture, production, assemblage, transfer, transportation, acquisition, retention, storage, testing, possession, delivery, dispersion, release, discharge or use of any weapon of mass destruction, any biological agent, chemical agent, radioactive agent or other lethal agent or any toxin with the intent to:

(a) Injure, intimidate or alarm any person, whether or not any person is actually injured, intimidated or alarmed thereby;

(b) Cause panic or civil unrest, whether or not such panic or civil unrest actually occurs;

(c) Extort or profit thereby, whether or not the extortion is actually successful or any profit actually occurs; or

(d) Interfere with the operations of or cause economic or other damage to any person or any officer, agency, board, bureau, commission, department, division or other unit of federal, state or local government, whether or not such interference or damage actually occurs.

2. A person who violates any provision of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than ~~1 year~~ **2 years** and a maximum term of

not more than ~~6~~ 20 years, and may be further punished by a fine of not more than \$5,000.

3. The provisions of this section do not apply to any act that is committed in a lawful manner and in the course of a lawful business, event or activity.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 137.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 194.

The following Senate amendment was read:

Amendment No. 763.

AN ACT relating to victims of crime; prohibiting an adverse party named in an extended order for protection against domestic violence from possessing or having under his custody or control a firearm; making various changes to provisions regarding orders for protection against domestic violence; expanding the persons against whom domestic violence may be committed; revising provisions regarding the testing of certain persons accused of committing certain crimes for exposure to the human immunodeficiency virus and commonly contracted sexually transmitted diseases; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth certain unlawful acts which constitute domestic violence when committed against certain specified persons. (NRS 33.018) Existing law authorizes a court to issue a temporary or extended order for protection to protect a person listed in that statute from domestic violence. (NRS 33.020, 33.030) Section 5 of this bill expands the list of persons against whom domestic violence may be committed to include a person who has been appointed the custodian or legal guardian of a child.

Section 2 of this bill authorizes the court, when issuing an extended order, to include a requirement that the adverse party surrender any firearms possessed by him or under his custody or control and that he not possess or have under his custody or control any firearm while the order is in effect. Section 2 requires the court to consider certain factors in deciding whether to include such provisions in an extended order and provides for a limited exception that may be granted if the adverse party can establish that the use or possession of a firearm is an integral part of his employment and that the employer will provide for the storage of any such firearm during any period that the adverse party is not working. Section 3 of this bill establishes the procedures governing the surrender, sale or transfer of any firearm possessed or under the custody or control of an adverse party subject to such an extended order. Section 2 makes it a gross misdemeanor for an adverse party to violate those provisions of an extended order.

Section 6 of this bill authorizes a court, when granting an extended order, to provide for the support of a minor child for whom a guardian has been appointed or who has been placed in protective custody and to pay compensation to the applicant for lost earnings and expenses incurred by the applicant in attending any hearing concerning an application for an extended order. (NRS 33.030)

Section 7 of this bill requires a law enforcement officer to inform an adverse party who violates an order for protection against domestic violence of the date and time set for a hearing on an application for an extended order in certain circumstances. (NRS 33.070)

Existing federal law requires, as a condition to receiving certain federal grants, that states provide by law for certain procedures concerning the testing of a defendant who is arrested for certain crimes involving sexual conduct. (42 U.S.C. § 3796hh(d)) Section 9 of this bill revises the procedures for testing certain alleged criminals who commit a sexual assault and victims of sexual assault for the human immunodeficiency virus and other commonly contracted sexually transmitted diseases to comply with those federal requirements. (NRS 441A.320)

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

Section 1. Chapter 33 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. A court may include in an extended order issued pursuant to NRS 33.030:*

*(a) A requirement that the adverse party surrender, sell or transfer any firearm in his possession or under his custody or control in the manner set forth in section 3 of this act; and*

*(b) A prohibition on the adverse party against possessing or having under his custody or control any firearm while the order is in effect.*

*2. In determining whether to include the provisions set forth in subsection 1 in an extended order, the court must consider, without limitation, whether the adverse party:*

*(a) Has a documented history of domestic violence;*

*(b) Has used or threatened to use a firearm to injure or harass the applicant, a minor child or any other person; and*

*(c) Has used a firearm in the commission or attempted commission of any crime.*

*3. If a court includes the provisions set forth in subsection 1 in an extended order, the court may include a limited exception from the prohibition to possess or have under his custody or control any firearm if the adverse party establishes that:*

*(a) The adverse party is employed by an employer who requires the adverse party to use or possess a firearm as an integral part of his employment; and*

*(b) The employer will provide for the storage of any such firearm during any period when the adverse party is not working.*

*4. An adverse party who violates any provision included in an extended order pursuant to this section concerning the surrender, sale, transfer, possession, custody or control of a firearm is guilty of a gross misdemeanor. If the court includes any such provision in an extended order, the court must include in the order a statement that violation of such a provision in the order is a gross misdemeanor.*

*Sec. 3. 1. If a court orders an adverse party to surrender any firearm pursuant to section 2 of this act, the adverse party shall, not later than 24 hours after service of the order:*

*(a) Surrender any firearm in his possession or under his custody or control to the appropriate local law enforcement agency designated by the court in the order;*

*(b) Surrender any firearm in his possession or under his custody or control to a person designated by the court in the order; or*

*(c) Sell or transfer any firearm in his possession or under his custody or control to a licensed firearm dealer.*

*2. If the court orders the adverse party to surrender any firearm to a local law enforcement agency pursuant to paragraph (a) of subsection 1, the law enforcement agency shall provide the adverse party with a receipt which includes a description of each firearm surrendered and the adverse party shall, not later than 72 hours or 1 business day, whichever is later, after surrendering any such firearm, provide the receipt to the court.*

*3. If the court orders the adverse party to surrender any firearm to a person designated by the court pursuant to paragraph (b) of subsection 1, the adverse party shall, not later than ~~48~~ 72 hours or 1 business day, whichever is later, after he surrenders any firearm to such person, provide to the court and the appropriate local law enforcement agency the name and address of the person designated in the order and a written description of each firearm surrendered to such person.*

*4. If the adverse party sells or transfers any firearm to a licensed firearm dealer that is subject to an order pursuant to paragraph (c) of subsection 1, the adverse party shall, not later than 72 hours or 1 business day, whichever is later, after such sale or transfer, provide to the court and the appropriate local law enforcement agency a receipt of such sale or transfer and a written description of each firearm sold or transferred.*

*5. If there is probable cause to believe that the adverse party has not surrendered, sold or transferred any firearm in his possession or under his custody or control within 24 hours after service of the order, the court may issue and deliver to any law enforcement officer a search warrant which authorizes the law enforcement officer to enter and search any place where there is probable cause to believe any firearm is located and seize the firearm.*

***6. A local law enforcement agency may charge and collect a fee from the adverse party for the collection and storage of a firearm pursuant to this section. The fee must not exceed the cost incurred by the local law enforcement agency to provide the service.***

Sec. 4. NRS 33.017 is hereby amended to read as follows:

33.017 As used in NRS 33.017 to 33.100, inclusive, ***and sections 2 and 3 of this act***, unless the context otherwise requires:

1. "Extended order" means an extended order for protection against domestic violence.

2. "Temporary order" means a temporary order for protection against domestic violence.

Sec. 5. NRS 33.018 is hereby amended to read as follows:

33.018 1. Domestic violence occurs when a person commits one of the following acts against or upon his spouse, former spouse, any other person to whom he is related by blood or marriage, a person with whom he is or was actually residing, a person with whom he has had or is having a dating relationship, a person with whom he has a child in common, the minor child of any of those persons, ~~or~~ his minor child ~~or~~ ***or any person who has been appointed the custodian or legal guardian for his minor child:***

(a) A battery.

(b) An assault.

(c) Compelling the other by force or threat of force to perform an act from which he has the right to refrain or to refrain from an act which he has the right to perform.

(d) A sexual assault.

(e) A knowing, purposeful or reckless course of conduct intended to harass the other. Such conduct may include, but is not limited to:

(1) Stalking.

(2) Arson.

(3) Trespassing.

(4) Larceny.

(5) Destruction of private property.

(6) Carrying a concealed weapon without a permit.

(f) A false imprisonment.

(g) Unlawful entry of the other's residence, or forcible entry against the other's will if there is a reasonably foreseeable risk of harm to the other from the entry.

2. As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

Sec. 6. NRS 33.030 is hereby amended to read as follows:

33.030 1. The court by a temporary order may:

(a) Enjoin the adverse party from threatening, physically injuring or harassing the applicant or minor child, either directly or through an agent;

- (b) Exclude the adverse party from the applicant's place of residence;
- (c) Prohibit the adverse party from entering the residence, school or place of employment of the applicant or minor child and order him to stay away from any specified place frequented regularly by them;
- (d) If it has jurisdiction under chapter 125A of NRS, grant temporary custody of the minor child to the applicant; and
- (e) Order such other relief as it deems necessary in an emergency situation.

2. The court by an extended order may grant any relief enumerated in subsection 1 and:

- (a) Specify arrangements for visitation of the minor child by the adverse party and require supervision of that visitation by a third party if necessary; and

- (b) Order the adverse party to:

- (1) Avoid or limit communication with the applicant or minor child;
- (2) Pay rent or make payments on a mortgage on the applicant's place of residence ~~for pay~~;

(3) ***Pay for the support of the applicant or minor child, including, without limitation, support of a minor child for whom a guardian has been appointed pursuant to chapter 159 of NRS or a minor child who has been placed in protective custody pursuant to chapter 432B of NRS, if he is found to have a duty to support the applicant or minor child; and***

~~(3)~~ (4) Pay all costs and fees incurred by the applicant in bringing the action ~~for~~; and

(5) ***Pay monetary compensation to the applicant for lost earnings and expenses incurred as a result of the applicant attending any hearing concerning an application for an extended order.***

3. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.

4. A temporary or extended order must specify, as applicable, the county and city, if any, in which the residence, school, child care facility or other provider of child care, and place of employment of the applicant or minor child are located.

5. A temporary or extended order must provide notice that a person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after his arrest if the arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm.

Sec. 7. NRS 33.070 is hereby amended to read as follows:

33.070 1. Every temporary or extended order must include a provision ordering any law enforcement officer to arrest an adverse party if the officer has probable cause to believe that the adverse party has violated any provision of the order. The law enforcement officer may make an arrest with



or without a warrant and regardless of whether the violation occurs in his presence.

2. If a law enforcement officer cannot verify that the adverse party was served with a copy of the application and order, he shall:

(a) Inform the adverse party of the specific terms and conditions of the order;

(b) Inform the adverse party that he now has notice of the provisions of the order and that a violation of the order will result in his arrest; ~~and~~

(c) Inform the adverse party of the location of the court that issued the original order and the hours during which the adverse party may obtain a copy of the order ~~[-]~~; **and**

**(d) Inform the adverse party of the date and time set for a hearing on an application for an extended order, if any.**

3. Information concerning the terms and conditions of the order, the date and time of the notice provided to the adverse party and the name and identifying number of the officer who gave the notice must be provided in writing to the applicant and noted in the records of the law enforcement agency and the court.

Sec. 8. NRS 441A.220 is hereby amended to read as follows:

441A.220 All information of a personal nature about any person provided by any other person reporting a case or suspected case of a communicable disease, or by any person who has a communicable disease, or as determined by investigation of the health authority, is confidential medical information and must not be disclosed to any person under any circumstances, including pursuant to any subpoena, search warrant or discovery proceeding, except as follows:

1. For statistical purposes, provided that the identity of the person is not discernible from the information disclosed.

2. In a prosecution for a violation of this chapter.

3. In a proceeding for an injunction brought pursuant to this chapter.

4. In reporting the actual or suspected abuse or neglect of a child or elderly person.

5. To any person who has a medical need to know the information for his own protection or for the well-being of a patient or dependent person, as determined by the health authority in accordance with regulations of the Board.

6. If the person who is the subject of the information consents in writing to the disclosure.

7. Pursuant to subsection ~~[2]~~ 4 of NRS 441A.320 or NRS 629.069.

8. If the disclosure is made to the Department of Health and Human Services and the person about whom the disclosure is made has been diagnosed as having acquired immunodeficiency syndrome or an illness related to the human immunodeficiency virus and is a recipient of or an applicant for Medicaid.

9. To a firefighter, police officer or person providing emergency medical services if the Board has determined that the information relates to a communicable disease significantly related to that occupation. The information must be disclosed in the manner prescribed by the Board.

10. If the disclosure is authorized or required by specific statute.

Sec. 9. NRS 441A.320 is hereby amended to read as follows:

441A.320 1. ~~{As soon as practicable after:~~

~~(a) A person is arrested for the commission of a crime; or~~

~~(b) A minor is detained for the commission of an act which, if committed by a person other than a minor would have constituted a crime,~~

~~↪ which} If the **alleged** victim or a witness **to a crime** alleges **that the crime** involved the sexual penetration of the victim's body, the health authority shall **perform the tests set forth in subsection 2 as soon as practicable after the arrest of the person alleged to have committed the crime, but not later than 48 hours after the person is charged with the crime by indictment or information, unless the person alleged to have committed the crime is a child who will be adjudicated in juvenile court and then not later than 48 hours after the petition is filed with the juvenile court alleging that the child is delinquent for committing such an act.**~~

**2. If the health authority is required to perform tests pursuant to subsection 1, it must test a specimen obtained from the arrested person ~~for or detained minor~~ for exposure to the human immunodeficiency virus and any commonly contracted sexually transmitted disease, regardless of whether he or, if ~~a detained minor,~~ **the person is a child**, his parent or guardian consents to providing the specimen. The agency that has custody of the arrested person ~~for detained minor~~ shall obtain the specimen and submit it to the health authority for testing. The health authority shall perform the test in accordance with generally accepted medical practices.**

~~{2.—The}~~

**3. In addition to the test performed pursuant to subsection 2, the health authority shall perform such follow-up tests for the human immunodeficiency virus as may be deemed medically appropriate.**

**4. As soon as practicable, the health authority shall disclose the results of all tests performed pursuant to subsection ~~{1,}~~ **2 or 3** to:**

(a) The victim or to the victim's parent or guardian if the victim is a ~~minor;} child;~~ and

(b) The arrested person and, if ~~a minor is detained,~~ **the person is a child**, to his parent or guardian.

~~{3.}~~ **5. If the health authority determines, from the results of a test performed pursuant to subsection ~~{1,}~~ **2 or 3**, that a victim of sexual assault may have been exposed to the human immunodeficiency virus or any commonly contracted sexually transmitted disease, it shall, at the request of the victim, provide him with:**

(a) An examination for exposure to the human immunodeficiency virus and any commonly contracted sexually transmitted disease to which the health authority determines he may have been exposed;

(b) Counseling regarding the human immunodeficiency virus and any commonly contracted sexually transmitted disease to which the health authority determines he may have been exposed; and

(c) A referral for health care and other assistance,

→ as appropriate.

~~{4.}~~ 6. If the court in:

(a) A criminal proceeding determines that a person has committed a crime; or

(b) A proceeding conducted pursuant to title 5 of NRS determines that a ~~{minor}~~ **child** has committed an act which, if committed by ~~{a person other than a minor,}~~ **an adult**, would have constituted a crime,

→ involving the sexual penetration of a victim's body, the court shall, upon application by the health authority, order that ~~{minor}~~ **child** or other person to pay any expenses incurred in carrying out this section with regard to that ~~{minor}~~ **child** or other person and that victim.

~~{5.}~~ 7. The Board shall adopt regulations identifying, for the purposes of this section, sexually transmitted diseases which are commonly contracted.

~~{6.}~~ 8. As used in this section:

(a) "Sexual assault" means a violation of NRS 200.366.

(b) "Sexual penetration" has the meaning ascribed to it in NRS 200.364.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 194.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 227.

The following Senate amendment was read:

Amendment No. 697.

AN ACT relating to trespassing; revising the provisions governing the posting of warnings against trespassing; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a person commits the crime of trespassing if the person willfully goes or remains upon any land or in any building after having been warned not to trespass. (NRS 207.200) For the purposes of determining whether a person has been given sufficient warning not to trespass, the owner of land may choose to fence the area or may paint the area in a specific manner.

This bill changes the interval between posts, structures or natural objects that must be painted with fluorescent orange paint from 200 feet to **such a distance as is necessary to ensure that a person has a clear line of vision**

**from one such post, structure or natural object to the next, but not less than every 1,000 feet ~~and at each corner of the land~~** if the land is used for agricultural purposes or for herding or grazing livestock ~~[ ]~~, **or not less than every 200 feet if the land is used for other purposes. In addition, each corner of the land must be similarly marked.** This bill also changes existing law, which requires that a post must be painted with not less than 50 square inches of paint and which requires that if the post is a metal fence post, the entire post must be painted, to provide that only the top 12 inches of any post must be painted, regardless of whether the post is made of wood, metal or other material. Furthermore, this bill requires that each side of all gates, cattle guards and openings that are designed for entry must be painted with fluorescent orange paint.

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

Section 1. NRS 207.200 is hereby amended to read as follows:

207.200 1. Unless a greater penalty is provided pursuant to NRS 200.603, any person who, under circumstances not amounting to a burglary:

(a) Goes upon the land or into any building of another with intent to vex or annoy the owner or occupant thereof, or to commit any unlawful act; or

(b) Willfully goes or remains upon any land or in any building after having been warned by the owner or occupant thereof not to trespass,  
➤ is guilty of a misdemeanor. The meaning of this subsection is not limited by subsections 2 and 4.

2. A sufficient warning against trespassing, within the meaning of this section, is given by ~~either~~ **any** of the following methods:

(a) ~~[Painting, at]~~ ***If the land is used for agricultural purposes or for herding or grazing livestock, by painting with fluorescent orange paint:***

***(1) ~~[At intervals of not more than]~~ [200 feet on each side] ~~[1,000 feet and at each corner of the land, upon or near the boundary, not]~~ Not less than 50 square inches of the exterior portion of a [post,] structure or natural object [with not less than 50 square inches of fluorescent orange paint or, if the post is a metal fence post, painting the entire post with such paint.] or the top 12 inches of the exterior portion of a post, whether made of wood, metal or other material ~~[ ]~~, at:***

***(I) Intervals of such a distance as is necessary to ensure that at least one such structure, natural object or post would be within the direct line of sight of a person standing next to another such structure, natural object or post, but at intervals of not more than 1,000 feet; and***

***(II) Each corner of the land, upon or near the boundary; and***

***(2) Each side of all gates, cattle guards and openings that are designed to allow human ingress to the area ; ~~[with fluorescent orange paint.]~~***

***(b) If the land is not used in the manner specified in paragraph (a), by painting with fluorescent orange paint ~~[, at intervals of not more than 200~~***

~~feet and at each corner of the land, upon or near the boundary,] not less than 50 square inches of the exterior portion of a structure or natural object or the top 12 inches of the exterior portion of a post, whether made of wood, metal or other material ~~+~~, at:~~

(1) Intervals of such a distance as is necessary to ensure that at least one such structure, natural object or post would be within the direct line of sight of a person standing next to another such structure, natural object or post, but at intervals of not more than 200 feet; and

(2) Each corner of the land, upon or near the boundary; or

(c) Fencing the area.

3. It is prima facie evidence of trespass for any person to be found on private or public property which is posted or fenced as provided in subsection 2 without lawful business with the owner or occupant of the property.

4. An entryman on land under the laws of the United States is an owner within the meaning of this section.

5. As used in this section, “fence” means a barrier sufficient to indicate an intent to restrict the area to human ingress, including, but not limited to, a wall, hedge or chain link or wire mesh fence. ***The term does not include a barrier made of barbed wire.***

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 227.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 406.

The following Senate amendment was read:

Amendment No. 739.

AN ACT relating to marriage; ~~requiring~~ **revising the authority of** the board of county commissioners of certain counties to designate a branch office of the county clerk at which marriage licenses may be issued ; ~~and to establish and maintain that branch office in certain incorporated cities;~~ **revising the requirements to obtain a marriage license;** revising provisions governing the content of marriage **licenses and** certificates; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires persons who wish to marry to obtain a license from the county clerk of any county in the State. This license must be issued at the seat of the county, unless the board of county commissioners, at the request of the county clerk, has designated a branch office of the county clerk at which marriage licenses may be issued. (NRS 122.040) Section 2 of this bill requires the board of county commissioners of a county whose population is 400,000 or more (currently Clark County) to designate one branch office of the county clerk at which marriage licenses may be issued ~~and to establish and maintain that branch office~~ , **which must be established and**

**maintained** in an incorporated city whose population is 150,000 or more ~~and~~ but less than ~~400,000~~ **300,000** (currently Henderson). **In addition, section 2 increases from two to not more than four the number of such branch offices that the board of county commissioners in a county whose population is 400,000 or more is authorized to designate.**

Existing law provides that, before issuing a marriage license, the county clerk may require the applicant to produce evidence that the applicant is of age. (NRS 122.040) Section 2 of this bill requires each applicant for a marriage license to provide proof of the applicant's name and age by presenting certain documents to the county clerk.

Existing law requires an applicant for a marriage license to answer under oath each question contained in the form of license and to include his social security number on the affidavit of application for a marriage license. (NRS 122.040) Section 2 of this bill requires both applicants for a marriage license to satisfy these requirements, unless the county clerk or a district court finds that extraordinary circumstances prevent one applicant from appearing before the county clerk, and authorizes the county clerk to issue the license if one applicant satisfies these requirements.

Existing law ~~provides for~~ **prescribes** the content of marriage licenses and marriage certificates. (NRS 122.050, 122.120) **Section 3.5 of this bill requires a marriage license to include the name of each applicant as shown on the documents presented to provide proof of the applicant's name and age.** Section 4 of this bill requires a marriage certificate to include the date of birth of each applicant.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 122.040 is hereby amended to read as follows:

122.040 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State. Except as otherwise provided in this subsection, the license must be issued at the county seat of that county. The board of county commissioners:

(a) In a county whose population is 400,000 or more ~~may~~:

*(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more ~~and~~ but less than ~~400,000~~ **300,000**; and*

*(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate ~~two~~ **not more than four** branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.*

(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which

marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.

2. Before issuing a marriage license, the county clerk ~~may require evidence that the applicant for the license is of age. The county clerk shall accept a statement under oath by the applicant and the applicant's parent, if available, that the applicant is of age.~~ shall require each applicant to provide proof of the applicant's name and age. The county clerk may accept as proof of the applicant's name and age an original or certified copy of any of the following:

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and a secondary form of identification that contains the name of the applicant. If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that the county clerk determines provides proof of the applicant's name and age.

3. ~~The~~ Except as otherwise provided in subsection 4, the county clerk issuing the license shall require ~~the~~ each applicant to answer under oath each of the questions contained in the form of license . ~~[.]~~ ~~and, if the applicant cannot answer positively any questions with reference to the other person named in the license, the clerk shall require both persons named in the license to appear before him and to answer, under oath, the questions contained in the form of license.~~ The county clerk shall require ~~the~~ each applicant to include ~~this~~ the applicant's social security number ~~and the social security number of the other person named in the license~~ on the affidavit of application for the marriage license. If ~~either~~ a person does not have a social security number, the person ~~responding to the question~~ must state that fact. The county clerk shall not require any evidence to verify a social security number. If any of the information required is unknown to the person , ~~responding to the question, he~~ the person must state that the answer is unknown.

4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk, the county clerk may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk, or may refer the applicant

to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk. If the district court waives the requirements of subsection 3, the district court shall notify the county clerk in writing. If the county clerk or the district court waives the requirements of subsection 3, the county clerk shall require the applicant who is able to appear before the county clerk to:

(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk shall not require any evidence to verify a social security number.

↪ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown.

5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk shall issue the license if the consent of the parent or guardian is:

(a) Personally given before the clerk;

(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk and make oath that he saw the parent or guardian subscribe his name to the annexed certificate, or heard him or her acknowledge it; or

(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

~~{5.}~~ 6. If the authorization of a district court is required, the county clerk shall issue the license if that authorization is given to him in writing.

~~{6.}~~ 7. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

~~{7.}~~ 8. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 3. (Deleted by amendment.)

**Sec. 3.5. NRS 122.050 is hereby amended to read as follows:**

122.050 The marriage license must contain the name of each applicant as shown in the documents presented pursuant to subsection 2 of NRS 122.040 and must be substantially in the following form:

MARRIAGE LICENSE

(EXPIRES 1 YEAR AFTER ISSUANCE)

State of Nevada }



}ss.

County of }

These presents are to authorize any minister who has obtained a certificate of permission, any Supreme Court justice or district judge within this State, or justice of the peace within a township wherein he is permitted to solemnize marriages or if authorized pursuant to subsection 3 of NRS 122.080, or a municipal judge if authorized pursuant to subsection 4 of NRS 122.080 or any commissioner of civil marriages or his deputy within a commissioner township wherein they are permitted to solemnize marriages, to join in marriage .... of (City, town or location) ....., State of .... State of birth (If not in U.S.A., name of country) .....; Date of birth .... Father's name .... Father's state of birth (If not in U.S.A., name of country) .... Mother's maiden name .... Mother's state of birth (If not in U.S.A., name of country) .... Number of this marriage (1st, 2nd, etc.) ... Wife deceased .... Divorced .... Annulled .... When .... Where .... And .... of (City, town or location) ....., State of .... State of birth (If not in U.S.A., name of country) .....; Date of birth .... Father's name .... Father's state of birth (If not in U.S.A., name of country) .... Mother's maiden name .... Mother's state of birth (If not in U.S.A., name of country) .... Number of this marriage (1st, 2nd, etc.) ... Husband deceased .... Divorced .... Annulled .... When .... Where .....; and to certify the marriage according to law.

Witness my hand and the seal of the county, this ... day of the month of ..... of the year .....

(Seal) Clerk

Deputy clerk

Sec. 4. NRS 122.120 is hereby amended to read as follows:

122.120 1. After a marriage is solemnized, the person solemnizing the marriage shall give to each couple being married a certificate of marriage.

2. The certificate of marriage *must contain the date of birth of each applicant as contained in the form of marriage license pursuant to NRS 122.050. The certificate of marriage* must be in substantially the following form:

STATE OF NEVADA

MARRIAGE CERTIFICATE

State of Nevada }

}ss.

County of }

This is to certify that the undersigned, ..... (a minister of the gospel, judge, justice of the peace of ..... County, commissioner of civil marriages or deputy commissioner of civil marriages, as the case may be), did on the ..... day of the month of ..... of the year ....., at ..... (address or church), ..... (city), Nevada, join in lawful wedlock ..... (name), of ..... (city), State of ..... , *Date of birth* ....., and ..... (name), of

.....(city), State of ....., ***Date of birth*** ....., with their mutual consent, in the presence of ..... and ..... (witnesses).

Signature of person performing  
(Seal of County Clerk) the marriage

Name under signature typewritten  
or printed in black ink

County Clerk

Official title of person performing  
the marriage

Couple's mailing address

3. All information contained in the certificate of marriage must be typewritten or legibly printed in black ink, except the signatures. The signature of the person performing the marriage must be an original signature.

Sec. 5. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of section 2 of this act.

Sec. 6. This act becomes effective on January 1, 2008.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 406.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 535.

The following Senate amendment was read:

Amendment No. 703.

AN ACT relating to gaming; revising the provisions governing which persons are required to register as gaming employees; providing that foreign limited-liability companies and foreign limited partnerships may obtain state gaming licenses; revising the provisions governing the acquisition or disposition of certain interests in certain corporations, limited-liability companies and limited partnerships; prohibiting certain acts involving counterfeit wagering instruments and counterfeit promotional items; making various other changes pertaining to gaming; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the State Gaming Control Board is required to maintain and make available to every licensee a list of persons who have been denied a license, been found unsuitable or had a license or finding of

suitability revoked by the Nevada Gaming Commission. (NRS 463.165, 463.167, 463.645) Sections 1, 5, 6 and 22 of this bill reorganize the provisions pertaining to that list and provide that a person whose name is on the list may apply to have his name removed from the list no earlier than 5 years after his license was denied, he was found unsuitable or his license or finding of suitability was revoked.

Independent agents who reside in Nevada are currently required to register as independent agents pursuant to the regulations adopted by the Nevada Gaming Commission and are additionally required to register as gaming employees pursuant to statute, whereas independent agents who reside outside Nevada are required only to register as independent agents. (NRS 463.335; Regulation 25 of the Nevada Gaming Commission) Sections 2-4, 7 and 8 of this bill remove the requirement that independent agents who reside in Nevada must register as gaming employees. Section 2 also provides that persons involved in the process of registration of gaming employees and persons directly involved in the manufacture, repair or distribution of gaming devices and other systems and equipment must be registered as gaming employees.

Section 9 of this bill revises the existing provisions pertaining to disputes involving patrons and licensees to make those provisions apply to the award or distribution of cash, prizes, benefits, tickets or any other item or items in a game, tournament, contest, drawing, promotion or similar activity or event. (NRS 463.362)

Sections 10-12, 15 and 18 of this bill revise existing law to allow foreign limited-liability companies and limited partnerships to obtain state gaming licenses. (NRS 463.564, 463.5731)

Sections 13, 14, 16, 17, 19 and 20 of this bill require holding companies and intermediary companies for certain corporations, limited-liability companies and limited partnerships to seek administrative approval for the acquisition or disposition of certain interests in such entities. Existing law is also amended to provide that such acquisitions or dispositions are void if not approved as required, rather than ineffective. (NRS 463.5665, 463.567, 463.57325, 463.5733)

Existing law provides that each person who acquires, directly or indirectly, beneficial ownership of any voting security in a publicly traded corporation which is registered with the Commission may be required to be found suitable if the Commission has reason to believe that his acquisition of that ownership would otherwise be inconsistent with the declared policy of this State. (NRS 463.643) Section 21 of this bill provides that a person may also be required to be found suitable if the person acquires beneficial or record ownership of any non-voting security in such a corporation.

Section 22 of this bill makes the provisions concerning unsuitable and unlicensed persons associated with certain business entities consistent with other statutory provisions by expressly stating that such persons may not

receive remuneration, enter into a contract or be employed by any licensee or affiliate of a licensee. (NRS 463.165, 463.166, 463.645)

~~f Sections 23 and 25 of this bill provide that persons in Nevada may place pari-mutuel wagers on horse racing in other states and foreign countries where such wagering is legal.]~~

**Under existing law, the Nevada Gaming Commission may, by regulation, authorize a person who owns an antique gaming device to sell that antique gaming device without procuring a license. “Antique gaming device” is defined in existing law as a gaming device that was manufactured before 1951. (NRS 463.650) Section 22.5 of this bill revises the definition of “antique gaming device” to mean a gaming device that was manufactured before 1961.**

Section 24 of this bill amends the existing prohibition against the use of counterfeit wagering instruments to make unlawful the possession, sale or manufacture of such counterfeit wagering instruments. (NRS 465.080) Section 24 also prohibits the possession, use, sale or manufacture of counterfeit promotional items.

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

Section 1. Chapter 463 of NRS is hereby amended by adding thereto a new section to read as follows:

***1. The Board shall maintain and make available to every licensee a complete and current list containing the names of every person who has been denied a license, been found unsuitable or had a license or finding of suitability revoked by the Commission.***

***2. Any person whose name has been placed on the list maintained by the Board pursuant to subsection 1 may apply, on a form prescribed by the Board, for removal of his name from the list no earlier than 5 years after the date on which the person was denied a license, found unsuitable or had a license or finding of suitability revoked by the Commission.***

Sec. 2. NRS 463.0157 is hereby amended to read as follows:

463.0157 1. “Gaming employee” means any person connected directly with an operator of a slot route, the operator of a pari-mutuel system, the operator of an inter-casino linked system or a manufacturer, distributor or disseminator, or with the operation of a gaming establishment licensed to conduct any game, 16 or more slot machines, a race book, sports pool or pari-mutuel wagering, including:

(a) Accounting or internal auditing personnel who are directly involved in any recordkeeping or the examination of records associated with revenue from gaming;

(b) Boxmen;

(c) Cashiers;

(d) Change personnel;

(e) Counting room personnel;

(f) Dealers;

(g) Employees of a person required by NRS 464.010 to be licensed to operate an off-track pari-mutuel system;

(h) Employees of a person required by NRS 463.430 to be licensed to disseminate information concerning racing;

(i) Employees ~~{of manufacturers or distributors of gaming equipment within this State}~~ whose duties are directly involved with the manufacture, repair or distribution of gaming devices, cashless wagering systems, mobile gaming systems, equipment associated with mobile gaming systems, interactive gaming systems or equipment associated with interactive gaming;

(j) Employees of operators of slot routes who have keys for slot machines or who accept and transport revenue from the slot drop;

(k) Employees of operators of inter-casino linked systems, mobile gaming systems or interactive gaming systems whose duties include the operational or supervisory control of the systems or the games that are part of the systems;

(l) *Employees whose responsibilities include performing the duties relating to the process of registration of gaming employees that a licensee is required to perform pursuant to the provisions of this chapter and any regulations adopted pursuant thereto;*

(m) Floormen;

~~{(m)}~~ (n) Hosts or other persons empowered to extend credit or complimentary services;

~~{(n)}~~ (o) Keno runners;

~~{(o)}~~ (p) Keno writers;

~~{(p)}~~ (q) Machine mechanics;

~~{(q)}~~ (r) Odds makers and line setters;

~~{(r)}~~ (s) Security personnel;

~~{(s)}~~ (t) Shift or pit bosses;

~~{(t)}~~ (u) Shills;

~~{(u)}~~ (v) Supervisors or managers;

~~{(v)}~~ (w) Ticket writers; and

~~{(w)}~~ (x) Employees of a person required by NRS 463.160 to be licensed to operate an information service.

2. "Gaming employee" does not include bartenders, cocktail waitresses or other persons engaged exclusively in preparing or serving food or beverages.

Sec. 3. NRS 463.01858 is hereby amended to read as follows:

463.01858 "Registered as a gaming employee" means authorized to be employed as a gaming employee in this State. ~~{or to serve as an independent agent.}~~

Sec. 4. NRS 463.01955 is hereby amended to read as follows:

463.01955 "Temporarily registered as a gaming employee" means authorized to be employed as a gaming employee in this State ~~{or serve as an independent agent}~~ from the date of submitting a complete application for

registration or renewal of registration for a period not to exceed 120 days following receipt of the complete application by the Board, including classifiable fingerprints, unless otherwise suspended.

Sec. 5. NRS 463.165 is hereby amended to read as follows:

463.165 1. Except for persons associated with licensed corporations, limited partnerships or limited-liability companies and required to be licensed pursuant to NRS 463.530, 463.569 or 463.5735, each employee, agent, guardian, personal representative, lender or holder of indebtedness of a gaming licensee who, in the opinion of the Commission, has the power to exercise a significant influence over the licensee's operation of a gaming establishment may be required to apply for a license.

2. A person required to be licensed pursuant to subsection 1 shall apply for a license within 30 days after the Commission requests that he do so.

3. If an employee required to be licensed under subsection 1:

(a) Does not apply for a license within 30 days after being requested to do so by the Commission, and the Commission makes a finding of unsuitability for that reason;

(b) Is denied a license; or

(c) Has his license revoked by the Commission,

→ the licensee by whom he is employed shall terminate his employment in any capacity in which he is required to be licensed and shall not permit him to exercise a significant influence over the operation of the gaming establishment upon being notified by registered or certified mail of that action.

4. A gaming licensee or an affiliate of the licensee shall not pay to a person whose employment has been terminated pursuant to subsection 3 any remuneration for any service performed in any capacity in which he is required to be licensed, except for amounts due for services rendered before the date of receipt of notice of the action by the Commission. Any contract or agreement for personal services or for the conduct of any activity at the licensed gaming establishment between a gaming licensee or an affiliate of the licensee and a person terminated pursuant to subsection 3 is subject to termination. Every such agreement shall be deemed to include a provision for its termination without liability on the part of the licensee or affiliate upon a finding by the Commission that the person is unsuitable to be associated with a gaming enterprise. Failure expressly to include that condition in the agreement is not a defense in any action brought pursuant to this section to terminate the agreement.

5. A gaming licensee or an affiliate of the licensee shall not, without the prior approval of the Commission, enter into any contract or agreement with a person who is found unsuitable or who is denied a license or whose license is revoked by the Commission, ~~and whose name has been placed on the list maintained pursuant to subsection 8,~~ or with any business enterprise that the licensee knows or under the circumstances reasonably should know is under the control of that person after the date of receipt of notice of the action by

the Commission. Every contract or agreement for personal services to a gaming licensee or an affiliate or for the conduct of any activity at a licensed gaming establishment shall be deemed to include a provision for its termination without liability on the part of the licensee or affiliate upon a finding by the Commission that the person is unsuitable to be associated with a gaming enterprise. Failure expressly to include such a condition in the agreement is not a defense in any action brought pursuant to this section to terminate the agreement.

6. A gaming licensee or an affiliate of the licensee shall not, without the prior approval of the Commission, employ any person in a capacity for which ~~he~~ **the person** is required to be licensed, if ~~he~~ **the person** has been found unsuitable or denied a license, or ~~whose~~ **if his** license has been revoked by the Commission, ~~and whose name has been placed on the list maintained pursuant to subsection 8,~~ after the date of receipt of notice of the action by the Commission. Every contract or agreement for employment with a gaming licensee or an affiliate shall be deemed to include a provision for its termination without liability on the part of the licensee or affiliate upon a finding by the Commission that the person is unsuitable to be associated with a gaming enterprise. Failure to expressly include such a condition in the agreement is not a defense in any action brought pursuant to this section to terminate the agreement.

7. As used in this section, “affiliate” means a person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with a licensee.

~~[8. The Board shall maintain and make available to every licensee a complete and current list containing the names of every person the Commission has denied a license, who has been found unsuitable or who has had a license or finding of suitability revoked. The list must also contain the names of any business organization under the control of any such person known to the Board.]~~

Sec. 6. NRS 463.167 is hereby amended to read as follows:

463.167 1. The Commission may determine the suitability, or may require the licensing, of any person who furnishes services or property to a state gaming licensee under any arrangement pursuant to which the person receives payments based on earnings, profits or receipts from gaming. The Commission may require any such person to comply with the requirements of this chapter and with the regulations of the Commission. If the Commission determines that any such person is unsuitable, it may require the arrangement to be terminated.

2. If the premises of a licensed gaming establishment are directly or indirectly owned or under the control of the licensee therein, or of any person controlling, controlled by, or under common control with the licensee, the Commission may, upon recommendation of the Board, require the application of any person for a determination of suitability to be associated with a gaming enterprise if the person:

- (a) Does business on the premises of the licensed gaming establishment;
- (b) Is an independent agent or does business with a licensed gaming establishment as a ticket purveyor, a tour operator, the operator of a bus program, or as the operator of any other type of casino travel program or promotion; or
- (c) Provides any goods or services to the licensed gaming establishment for a compensation which the Board finds to be grossly disproportionate to the value of the goods or services.

3. If the Commission determines that the person is unsuitable to be associated with a gaming enterprise, the association must be terminated. Any agreement which entitles a business other than gaming to be conducted on the premises, or entitles a person other than gaming to conduct business with the licensed gaming establishment as set forth in paragraph (b) or (c) of subsection 2, is subject to termination upon a finding of unsuitability of the person associated therewith. Every such agreement must be deemed to include a provision for its termination without liability on the part of the licensee upon a finding by the Commission that the person associated therewith is unsuitable to be associated with a gaming enterprise. Failure expressly to include that condition in the agreement is not a defense in any action brought pursuant to this section to terminate the agreement. If the application is not presented to the board within 30 days following demand or the unsuitable association is not terminated, the Commission may pursue any remedy or combination of remedies provided in this chapter.

~~{4. The name of any person determined to be unsuitable pursuant to this section must be included on the list required pursuant to subsection 8 of NRS 463.165.}~~

Sec. 7. NRS 463.335 is hereby amended to read as follows:

463.335 1. The Legislature finds that, to protect and promote the health, safety, morals, good order and general welfare of the inhabitants of the State of Nevada and to carry out the policy declared in NRS 463.0129, it is necessary that the Board:

(a) Ascertain and keep itself informed of the identity, prior activities and present location of all gaming employees ~~{and independent agents}~~ in the State of Nevada; and

(b) Maintain confidential records of such information.

2. ~~{Except as otherwise provided in subsection 4, a}~~ A person may not be employed as a gaming employee ~~{or serve as an independent agent}~~ unless he is temporarily registered or registered as a gaming employee pursuant to this section. An applicant for registration or renewal of registration as a gaming employee must file an application for registration or renewal of registration with the Board. Whenever a registered gaming employee, whose registration has not expired, has not been objected to by the Board, or has not been suspended or revoked becomes employed as a gaming employee at another or additional gaming establishment, he must file a change of employment notice within 10 days with the Board. The application for registration and



change of employment notice must be filed through the licensee for whom the applicant will commence or continue working as a gaming employee, unless otherwise filed with the Board as prescribed by regulation of the Commission.

3. The Board shall prescribe the forms for the application for registration as a gaming employee and the change of employment notice.

4. ~~{An independent agent is not required to be registered as a gaming employee if he is not a resident of this State and has registered with the Board in accordance with the provisions of the regulations adopted by the Commission.}~~

~~5.}~~ A complete application for registration or renewal of registration as a gaming employee or a change of employment notice received by a licensee must be mailed or delivered to the Board within 5 business days ~~{of}~~ *after* receipt unless the date is administratively extended by the Chairman of the Board for good cause. A licensee is not responsible for the accuracy or completeness of any application for registration or renewal of registration as a gaming employee or any change of employment notice.

~~{6.}~~ 5. The Board shall immediately conduct an investigation of each person who files an application for registration or renewal of registration as a gaming employee to determine whether he is eligible for registration as a gaming employee. In conducting the investigation, two complete sets of the applicant's fingerprints must be submitted to the Central Repository for Nevada Records of Criminal History for:

(a) A report concerning the criminal history of the applicant; and

(b) Submission to the Federal Bureau of Investigation for a report concerning the criminal history of the applicant.

↪ The investigation need not be limited solely to consideration of the results of the report concerning the criminal history of the applicant. The fee for processing an application for registration or renewal of registration as a gaming employee may be charged only to cover the actual investigative and administrative costs related to processing the application and the fees charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation to process the fingerprints of an applicant pursuant to this subsection.

~~{7.}~~ 6. Upon receipt of a change of employment notice, the Board may conduct any investigations of the gaming employee that the Board deems appropriate to determine whether the gaming employee may remain registered as a gaming employee. The filing of a change of employment notice constitutes an application for registration as a gaming employee, and if the Board, after conducting its investigation, suspends or objects to the continued registration of the gaming employee, the provisions of subsections ~~{11 to 17.}~~ **10 to 16**, inclusive, apply to such suspension by or objection of the Board. No fee may be charged by the Board to cover the actual investigative and administrative costs related to processing a change of employment notice.

~~{8.}~~ 7. Except as otherwise prescribed by regulation of the Commission, an applicant for registration or renewal of registration as a gaming employee is deemed temporarily registered as a gaming employee as of the date a complete application for registration or renewal of registration is submitted to the licensee for which he will commence or continue working as a gaming employee. Unless objected to by the Board or suspended or revoked, the initial registration of an applicant as a gaming employee expires 5 years after the date employment commences with the applicable licensee . ~~{or, in the case of an independent agent, 5 years after the date he contracts with an applicable licensee.}~~ Any subsequent renewal of registration as a gaming employee, unless objected to by the Board or suspended or revoked, expires 5 years after the expiration date of the most recent registration or renewal of registration of the gaming employee.

~~{9.}~~ 8. If, within 120 days after receipt by the Board of a complete application for registration or renewal of registration as a gaming employee, including classifiable fingerprints, or a change of employment notice, the Board has not notified the applicable licensee of any suspension or objection, the applicant shall be deemed to be registered as a gaming employee. A complete application for registration or renewal of registration as a gaming employee is composed of:

(a) The fully completed form for application for registration as a gaming employee prescribed in subsection 3;

(b) Two complete sets of the fingerprints of the applicant, unless directly forwarded electronically or by another means to the Central Repository for Nevada Records of Criminal History;

(c) The fee for processing the application for registration or renewal of registration as a gaming employee prescribed by the Board pursuant to subsection ~~{6.}~~ 5, unless otherwise prescribed by regulation of the Commission; and

(d) A completed statement as prescribed in subsections 1 and 2 of NRS 463.3351.

➡ If the Board determines after receiving an application for registration or renewal of registration as a gaming employee that the application is incomplete, the Board may suspend the temporary registration as a gaming employee of the applicant who filed the incomplete application. An applicant whose temporary registration is suspended shall not be eligible to work as a gaming employee until such time as he files a complete application.

~~{10.}~~ 9. A person who is temporarily registered or registered as a gaming employee is eligible for employment in any licensed gaming establishment in this State until such registration is objected to by the Board, expires or is suspended or revoked. The Commission shall adopt regulations to:

(a) Establish uniform procedures for the registration of gaming employees;

(b) Establish uniform criteria for objection by the Board of an application for registration; and

(c) Provide for the creation and maintenance of a system of records that contain information regarding the current place of employment of each person who is registered as a gaming employee and each person whose registration as a gaming employee has expired, was objected to by the Board, or was suspended or revoked. The system of records must be accessible by:

(1) Licensees for the limited purpose of complying with subsection 2; and

(2) The Central Repository for Nevada Records of Criminal History for the limited purpose of complying with NRS 179D.570.

~~{11-}~~ **10.** If the Board, within the 120-day period prescribed in subsection ~~{9-}~~ **8**, notifies:

(a) The applicable licensee; and

(b) The applicant,

↳ that the Board suspends or objects to the temporary registration of an applicant as a gaming employee, the licensee shall immediately terminate the applicant from employment or reassign him to a position that does not require registration as a gaming employee. The notice of suspension or objection by the Board which is sent to the applicant must include a statement of the facts upon which the Board relied in making its suspension or objection.

~~{12-}~~ **11.** Any person whose application for registration or renewal of registration as a gaming employee has been suspended or objected to by the Board may, not later than 60 days after receiving notice of the suspension or objection, apply to the Board for a hearing. A failure of a person whose application has been objected to or suspended to apply for a hearing within 60 days or his failure to appear at a hearing of the Board conducted pursuant to this section shall be deemed to be an admission that the suspension or objection is well-founded, and the failure precludes administrative or judicial review. At the hearing, the Board shall take any testimony deemed necessary. After the hearing, the Board shall review the testimony taken and any other evidence, and shall, within 45 days after the date of the hearing, mail to the applicant its decision sustaining or reversing the suspension or the objection to the registration of the applicant as a gaming employee.

~~{13-}~~ **12.** The Board may suspend or object to the registration of an applicant as a gaming employee for any cause deemed reasonable by the Board. The Board may object to or suspend the registration if the applicant has:

(a) Failed to disclose or misstated information or otherwise attempted to mislead the Board with respect to any material fact contained in the application for registration as a gaming employee;

(b) Knowingly failed to comply with the provisions of this chapter or chapter 463B, 464 or 465 of NRS or the regulations of the Commission at a place of previous employment;

(c) Committed, attempted or conspired to commit any crime of moral turpitude, embezzlement or larceny or any violation of any law pertaining to

gaming, or any crime which is inimical to the declared policy of this State concerning gaming;

(d) Committed, attempted or conspired to commit a crime which is a felony or gross misdemeanor in this State or an offense in another state or jurisdiction which would be a felony or gross misdemeanor if committed in this State and which relates to the applicant's suitability or qualifications to work as a gaming employee;

(e) Been identified in the published reports of any federal or state legislative or executive body as being a member or associate of organized crime, or as being of notorious and unsavory reputation;

(f) Been placed and remains in the constructive custody of any federal, state or municipal law enforcement authority; or

(g) Had registration as a gaming employee revoked or committed any act which is a ground for the revocation of registration as a gaming employee or would have been a ground for revoking registration as a gaming employee if the applicant had then been registered as a gaming employee.

➡ If the Board registers or does not suspend or object to the registration of an applicant as a gaming employee, it may specially limit the period for which the registration is valid, limit the job classifications for which the registered gaming employee may be employed and establish such individual conditions for the renewal and effectiveness of the registration as the Board deems appropriate, including required submission to unscheduled tests for the presence of alcohol or controlled substances. ***If a gaming employee fails to comply with any limitation or condition placed on the effectiveness of his registration as a gaming employee, notwithstanding any other provision of this section, the Board may object to his registration. If the Board objects to his registration, the provisions regarding the continued effectiveness of the registration and the review of the objection set forth in subsections 10 to 16, inclusive, apply, including, without limitation, the requirement to notify the applicable licensee about the objection.***

~~{14}~~ 13. Any applicant aggrieved by the decision of the Board may, within 15 days after the announcement of the decision, apply in writing to the Commission for review of the decision. Review is limited to the record of the proceedings before the Board. The Commission may sustain, modify or reverse the Board's decision. The decision of the Commission is subject to judicial review pursuant to NRS 463.315 to 463.318, inclusive.

~~{15}~~ 14. The Chairman of the Board may designate a member of the Board or the Board may appoint a hearing examiner and authorize that person to perform on behalf of the Board any of the following functions required of the Board by this section concerning the registration or renewal of registration of gaming employees:

- (a) Conducting a hearing and taking testimony;
- (b) Reviewing the testimony and evidence presented at the hearing;
- (c) Making a recommendation to the Board based upon the testimony and evidence or rendering a decision on behalf of the Board to sustain or reverse

the suspension of or the objection to the registration of an applicant as a gaming employee; and

(d) Notifying the applicant of the decision.

~~{16.}~~ **15.** Notice by the Board as provided pursuant to subsections 1 to ~~{15.}~~ **14**, inclusive, is sufficient if it is mailed to the applicant's last known address as indicated on the application for registration as a gaming employee or the record of the hearing, as the case may be. The date of mailing may be proven by a certificate signed by an officer or employee of the Board which specifies the time the notice was mailed. The notice shall be deemed to have been received by the applicant 5 days after it is deposited with the United States Postal Service with the postage thereon prepaid.

~~{17.}~~ **16.** Except as otherwise provided in this subsection, all records acquired or compiled by the Board or Commission relating to any application made pursuant to this section, all lists of persons registered as gaming employees, all lists of persons suspended or objected to by the Board and all records of the names or identity of persons engaged in the gaming industry in this State are confidential and must not be disclosed except in the proper administration of this chapter or to an authorized law enforcement agency. Upon receipt of a request from the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.400 for information relating to a specific person who has applied for registration as a gaming employee or is registered as a gaming employee, the Board shall disclose to the Division his social security number, residential address and current employer as that information is listed in the files and records of the Board. Any record of the Board or Commission which shows that the applicant has been convicted of a crime in another state must show whether the crime was a misdemeanor, gross misdemeanor, felony or other class of crime as classified by the state in which the crime was committed. In a disclosure of the conviction, reference to the classification of the crime must be based on the classification in the state where it was committed.

~~{18.}~~ **17.** If the Central Repository for Nevada Records of Criminal History, in accordance with the provisions of NRS 179D.570, provides the Board with the name and other identifying information of a registered gaming employee who is not in compliance with the provisions of chapter 179D of NRS, the Board shall notify the person that, unless he provides the Board with verifiable documentation confirming that he is currently in compliance with the provisions of chapter 179D of NRS within 15 days after receipt of such notice, the Board shall, notwithstanding any other provisions of this section, conduct a hearing for the purpose of determining whether the registration of the person as a gaming employee must be suspended for noncompliance with the provisions of chapter 179D of NRS.

~~{19.}~~ **18.** Notwithstanding any other provisions of this section, if a person notified by the Board pursuant to subsection ~~{18.}~~ **17** does not provide the Board, within the 15 days prescribed therein, with verifiable documentation establishing that he is currently in compliance with the provisions of chapter

179D of NRS, the Chairman of the Board shall, within 10 days thereof, appoint a hearing examiner to conduct a hearing to determine whether the person is, in fact, not in compliance with the provisions of chapter 179D of NRS. The hearing examiner shall, within 5 days after the date he is appointed by the Chairman, notify the person of the date of the hearing. The hearing must be held within 20 days after the date on which the hearing examiner is appointed by the Chairman, unless administratively extended by the Chairman for good cause. At the hearing, the hearing examiner may take any testimony deemed necessary and shall render a decision sustaining or reversing the findings of the Central Repository for Nevada Records of Criminal History. The hearing examiner shall notify the person of his decision within 5 days after the date on which the decision is rendered. A failure of a person to appear at a hearing conducted pursuant to this section shall be deemed to be an admission that the findings of the hearing examiner are well-founded.

~~{20.}~~ **19.** If, after conducting the hearing prescribed in subsection ~~{19.}~~ **18**, the hearing examiner renders a decision that the person who is the subject of the hearing:

(a) Is not in compliance with the provisions of chapter 179D of NRS, the Board shall, notwithstanding any other provisions of this section:

(1) Suspend the registration of the person as a gaming employee;

(2) Notify the person to contact the Central Repository for Nevada Records of Criminal History to determine the actions that he must take to be in compliance with the provisions of chapter 179D of NRS; and

(3) Notify the licensee for which the person is employed as a gaming employee, in the manner prescribed in subsection ~~{21.}~~ **20**, that the Board has suspended the registration of the person as a gaming employee and that the licensee must immediately terminate the person from employment or reassign him to a position that does not require registration as a gaming employee.

(b) Is in compliance with the provisions of chapter 179D of NRS, the Board shall notify the person and the Central Repository for Nevada Records of Criminal History, in the manner prescribed in subsection ~~{21.}~~ **20**, of the findings of the hearing examiner.

~~{21.}~~ **20.** Notice as provided pursuant to subsections ~~{18, 19 and 20}~~ **17, 18 and 19** is sufficient if it is mailed to the person's last known address as indicated on the most recent application for registration as a gaming employee or the record of the hearing, or to the person at his place of gaming employment. The date of mailing may be proven by a certificate signed by an officer or employee of the Board which specifies the time the notice was mailed. The notice shall be deemed to have been received by the applicant 5 days after it is deposited with the United States Postal Service with the postage thereon prepaid.

~~{22.}~~ **21.** The Board shall remove a suspension entered in accordance with subsection ~~{20}~~ **19** and reinstate the registration of a person as a gaming

employee upon receipt of verifiable documentation confirming that the person is currently in compliance with the provisions of chapter 179D of NRS.

Sec. 8. NRS 463.337 is hereby amended to read as follows:

463.337 1. If any gaming employee ~~for independent agent,~~ who is registered as a gaming employee with the Board ~~+~~ is convicted of any violation of this chapter or chapter 463B, 464 or 465 of NRS, or if in investigating an alleged violation of this chapter by any licensee the Commission finds that a registered gaming employee employed by ~~for a registered independent agent contracting with~~ the licensee has been guilty of cheating, the Commission shall, after a hearing as provided in NRS 463.310 and 463.312 to 463.3145, inclusive, revoke the registration.

2. The Commission may revoke the registration of a gaming employee ~~for independent agent~~ if the Commission finds, after a hearing as provided in NRS 463.310 and 463.312 to 463.3145, inclusive, that the gaming employee ~~for independent agent~~ has failed to disclose, misstated or otherwise misled the Board in respect to any fact contained within any application for registration as a gaming employee or, subsequent to being registered as a gaming employee:

(a) Committed, attempted or conspired to do any of the acts prohibited by this chapter or chapter 463B, 464 or 465 of NRS;

(b) Knowingly possessed or permitted to remain in or upon any licensed premises any cards, dice, mechanical device or any other cheating device whatever, the use of which is prohibited by statute or ordinance;

(c) Concealed or refused to disclose any material fact in any investigation by the Board;

(d) Committed, attempted or conspired to commit larceny or embezzlement against a gaming licensee or upon the premises of a licensed gaming establishment;

(e) Been convicted in any jurisdiction other than Nevada of any offense involving or relating to gambling;

(f) Accepted employment without prior Commission approval in a position for which he could be required to be licensed under this chapter after having been denied a license for a reason involving personal unsuitability or after failing to apply for licensing when requested to do so by the Commission;

(g) Been refused the issuance of any license, permit or approval to engage in or be involved with gaming or pari-mutuel wagering in any jurisdiction other than Nevada, or had any such license, permit or approval revoked or suspended;

(h) Been prohibited under color of governmental authority from being present upon the premises of any gaming establishment or any establishment where pari-mutuel wagering is conducted for any reason relating to improper gambling activities or any illegal act;

(i) Contumaciously defied any legislative investigative committee or other officially constituted bodies acting on behalf of the United States or any state, county or municipality which seeks to investigate crimes relating to gaming, corruption of public officials, or any organized criminal activities; or

(j) Been convicted of any felony or gross misdemeanor, other than one constituting a violation of this chapter or chapter 463B, 464 or 465 of NRS.

3. A gaming employee ~~for independent agent~~ whose registration as a gaming employee has been revoked pursuant to this section is entitled to judicial review of the Commission's action in the manner prescribed by NRS 463.315 to 463.318, inclusive.

4. Nothing in this section limits or prohibits the enforcement of NRS 463.165, 463.560, 463.595, 463.637 or 463.645.

Sec. 9. NRS 463.362 is hereby amended to read as follows:

463.362 1. Whenever a ~~licensee and a~~ patron ***and a licensee, or any person acting on behalf of or in conjunction with a licensee,*** have any dispute ~~[as to alleged]~~ ***which cannot be resolved to the satisfaction of the patron and which involves:***

(a) ***Alleged*** winnings, alleged losses or the ***award or distribution of cash, prizes, benefits, tickets or any other item or items in a game, tournament, contest, drawing, promotion or similar activity or event; or***

(b) ***The*** manner in which a game , ***tournament, contest, drawing, promotion or similar activity or event*** is conducted,

~~↪ the licensee [and the patron are unable to resolve the dispute to the satisfaction of the patron and the dispute involves:]~~ ***is responsible for notifying the Board or patron in accordance with the provisions of subsection 2, regardless of whether the licensee is directly or indirectly involved in the dispute.***

2. ***Whenever a dispute described in subsection 1 involves:***

(a) At least \$500, the licensee shall immediately notify the Board; or

(b) Less than \$500, the licensee shall ~~[inform]~~ ***notify*** the patron of his right to request that the Board conduct an investigation.

~~{↪ The}~~

3. ***Upon being notified of a dispute, the*** Board, through an agent, shall conduct whatever investigation it deems necessary and shall determine whether payment should be made.

~~{2.}~~ The agent of the Board shall mail written notice to the Board, the licensee and the patron of his decision resolving the dispute within 30 days after the date the Board first receives notification from the licensee or a request to conduct an investigation from the patron. The failure of the agent to mail notice of his decision within the time required by this subsection does not divest the Board of its exclusive jurisdiction over the dispute.

~~{3.}~~ 4. Failure of the licensee to notify the Board or ~~[inform the]~~ patron as provided in subsection ~~{1}~~ 2 is grounds for disciplinary action pursuant to NRS 463.310 to 463.3145, inclusive.



~~{4-}~~ 5. The decision of the agent of the Board is effective on the date the aggrieved party receives notice of the decision. Notice of the decision shall be deemed sufficient if it is mailed to the last known address of the licensee and patron. The date of mailing may be proven by a certificate signed by an officer or employee of the Board which specifies the time the notice was mailed. The notice shall be deemed to have been received by the licensee or the patron 5 days after it is deposited with the United States Postal Service with the postage thereon prepaid.

Sec. 10. NRS 463.4862 is hereby amended to read as follows:

463.4862 "Limited-liability company" means a limited-liability company organized and existing pursuant to the provisions of chapter 86 of NRS ~~{-}~~ ***or formed under the laws of any jurisdiction other than this State.***

Sec. 11. NRS 463.4864 is hereby amended to read as follows:

463.4864 "Limited partnership" means a partnership formed by two or more persons pursuant to the terms of chapter 88 of NRS ~~{-}~~ ***or the laws of any state other than this State,*** having as members one or more general partners and one or more limited partners.

Sec. 12. NRS 463.4865 is hereby amended to read as follows:

463.4865 "Limited partnership interest" means the right of a general or limited partner to receive from a limited partnership:

1. A share of the profits;
2. Any other compensation by way of income; or
3. A return of any or all of his contribution to capital of the limited partnership,

↪ or the right to exercise any of the rights or powers provided in chapter 88 of NRS ~~{-}~~ ***or the laws of any state other than this State,*** whether directly or indirectly.

Sec. 13. NRS 463.505 is hereby amended to read as follows:

463.505 1. The purported granting of an option to purchase any security issued by a corporation, other than a publicly traded corporation, which holds a state gaming license ~~{-}~~ ***or which is a holding company or an intermediary company for an entity that holds a state gaming license*** or the purported sale, assignment, transfer, pledge or other disposition of an existing option to acquire such a security is void unless administratively approved in advance by the Chairman of the Board.

2. A request for administrative approval pursuant to subsection 1 must:

- (a) Be made on forms approved by the Chairman of the Board; and
- (b) To the extent consistent with this section, be considered in all respects as an application.

3. The Chairman of the Board may refer a request for administrative approval to the Board and Commission for consideration or deny the request for administrative approval for any reasonable cause. A denial may be submitted for review by the Board and Commission in the manner set forth by the regulations of the Commission pertaining to the review of administrative approval decisions.

4. The Commission, upon recommendation by the Board, may require a person to apply for a finding of suitability to hold an option to purchase such a security.

Sec. 14. NRS 463.510 is hereby amended to read as follows:

463.510 1. The purported sale, assignment, transfer, pledge, exercise of an option to purchase or other disposition of any security issued by a corporation, other than a publicly traded corporation, which holds a state gaming license ***or which is a holding company or an intermediary company for an entity that holds a state gaming license*** is void unless approved in advance by the Commission.

2. If at any time the Commission finds that an individual owner of any such security is unsuitable to continue as a gaming licensee in this state, the owner shall immediately offer the security to the issuing corporation for purchase. The corporation shall purchase the security so offered, for cash at fair market value, within 10 days after the date of the offer.

3. Beginning upon the date when the Commission serves notice of a determination of unsuitability pursuant to subsection 2 upon the corporation, it is unlawful for the unsuitable owner:

- (a) To receive any dividend or interest upon any such security;
- (b) To exercise, directly or through any trustee or nominee, any voting right conferred by such security; or
- (c) To receive any remuneration in any form from the corporation, for services rendered or otherwise.

4. Every security issued by a corporation, other than a publicly traded corporation, which holds a state gaming license must bear a statement, on both sides of the certificate evidencing the security, of the restrictions imposed by this section.

Sec. 15. NRS 463.564 is hereby amended to read as follows:

463.564 In order to be eligible to receive a state gaming license, a limited partnership shall:

- 1. ~~{Be formed under the laws of this State;~~
- 2. Maintain an office of the limited partnership on the licensed premises;
- ~~{3.}~~ 2. Comply with all of the requirements of the laws of this State pertaining to limited partnerships; and
- ~~{4.}~~ 3. Maintain a ledger in the principal office of the limited partnership in this State, which must:
  - (a) At all times reflect the ownership of all interests in the limited partnership; and
  - (b) Be available for inspection by the Board, Commission and their authorized agents, at all reasonable times without notice.

Sec. 16. NRS 463.5665 is hereby amended to read as follows:

463.5665 1. The purported granting of an option to purchase any interest in a limited partnership which holds a state gaming license ***or which is a holding company or an intermediary company for an entity that holds***

*a state gaming license* or the purported sale, assignment, transfer, pledge or other disposition of an existing option to acquire such an interest is ~~ineffective~~ **void** unless administratively approved in advance by the Chairman of the Board.

2. A request for administrative approval pursuant to subsection 1 must:

- (a) Be made on forms approved by the Chairman of the Board; and
- (b) To the extent consistent with this section, be considered in all respects as an application.

3. The Chairman of the Board may refer a request for administrative approval to the Board and Commission for consideration or deny the request for administrative approval for any reasonable cause. A denial may be submitted for review by the Board and Commission in the manner set forth by the regulations of the Commission pertaining to the review of administrative approval decisions.

4. The Commission, upon recommendation by the Board, may require a person to apply for a finding of suitability to hold an option to purchase such an interest.

Sec. 17. NRS 463.567 is hereby amended to read as follows:

463.567 1. The purported sale, assignment, transfer, pledge, exercise of an option to purchase, or other disposition of any interest in a limited partnership which holds a state gaming license *or which is a holding company or an intermediary company for an entity that holds a state gaming license* is ~~ineffective~~ **void** unless approved in advance by the Commission.

2. If at any time the Commission finds that an individual owner of any such interest is unsuitable to hold that interest, the Commission shall immediately notify the limited partnership of that fact. The limited partnership shall, within 10 days ~~from~~ *after* the date that it receives the notice from the Commission, return to the unsuitable owner, in cash, the amount of his capital account as reflected on the books of the partnership.

3. Beginning on the date when the Commission serves notice of a determination of unsuitability pursuant to subsection 2 upon the limited partnership, it is unlawful for the unsuitable owner:

- (a) To receive any share of the profits or interest upon any limited partnership interest;
- (b) To exercise, directly or through any trustee or nominee, any voting right conferred by such interest; or
- (c) To receive any remuneration in any form from the limited partnership, for services rendered or otherwise.

4. The certificate of limited partnership of any limited partnership holding a state gaming license must contain a statement of the restrictions imposed by this section.

Sec. 18. NRS 463.5731 is hereby amended to read as follows:

463.5731 In order to be eligible to receive a license, a limited-liability company must:

1. ~~{Be formed under the laws of this State;~~
- 2.} Maintain an office of the limited-liability company on the licensed premises;
- ~~{3.}~~ 2. Comply with all of the requirements of the laws of this State pertaining to limited-liability companies; and
- ~~{4.}~~ 3. Maintain a ledger in the principal office of the limited-liability company in this State, which must:
  - (a) At all times reflect the ownership of all interests in the limited-liability company; and
  - (b) Be available for inspection by the Board, Commission and their authorized agents, at all reasonable times without notice.

Sec. 19. NRS 463.57325 is hereby amended to read as follows:

463.57325 1. The purported granting of an option to purchase any interest in a limited-liability company which holds a state gaming license ***or which is a holding company or an intermediary company for an entity that holds a state gaming license*** or the purported sale, assignment, transfer, pledge or other disposition of an existing option to acquire such an interest is ~~{ineffective}~~ ***void*** unless administratively approved in advance by the Chairman of the Board.

2. A request for administrative approval pursuant to subsection 1 must:
  - (a) Be made on forms approved by the Chairman of the Board; and
  - (b) To the extent consistent with this section, be considered in all respects as an application.
3. The Chairman of the Board may refer a request for administrative approval to the Board and Commission for consideration or deny the request for administrative approval for any reasonable cause. A denial may be submitted for review by the Board and Commission in the manner set forth by the regulations of the Commission pertaining to the review of administrative approval decisions.
4. The Commission, upon recommendation by the Board, may require a person to apply for a finding of suitability to hold an option to purchase such an interest.

Sec. 20. NRS 463.5733 is hereby amended to read as follows:

463.5733 1. The purported sale, assignment, transfer, pledge, exercise of an option to purchase , or other disposition of any interest in a limited-liability company which holds a state gaming license ***or which is a holding company or an intermediary company for an entity that holds a state gaming license*** is ~~{ineffective}~~ ***void*** unless approved in advance by the Commission.

2. If at any time the Commission finds that a member is unsuitable to hold an interest in a limited-liability company, the Commission shall immediately notify the limited-liability company of that fact. The limited-liability company shall, within 10 days after it receives the notice from the Commission, return to the member, in cash, the amount of his capital account as reflected on the books of the company.

3. Except as otherwise provided in subsection 2, beginning on the date when the Commission serves notice of a determination of unsuitability pursuant to subsection 2 upon the limited-liability company, it is unlawful for the unsuitable member:

(a) To receive any share of the distribution of profits of the limited-liability company or any payments upon dissolution of the company;

(b) To exercise any voting right conferred by the member's interest in the limited-liability company;

(c) To participate in the management of the limited-liability company; or

(d) To receive any remuneration in any form from the limited-liability company, for services rendered or otherwise.

4. The articles of organization of any limited-liability company holding a state gaming license must contain a statement of the restrictions imposed by this section.

Sec. 21. NRS 463.643 is hereby amended to read as follows:

463.643 1. Each person who acquires, directly or indirectly ~~beneficial~~ ~~beneficial~~:

(a) **Beneficial** ownership of any voting security ; **or**

(b) **Beneficial or record ownership of any nonvoting security,**

↪ in a publicly traded corporation which is registered with the Commission may be required to be found suitable if the Commission has reason to believe that his acquisition of that ownership would otherwise be inconsistent with the declared policy of this state.

2. Each person who acquires, directly or indirectly, beneficial **or record** ownership of any debt security in a publicly traded corporation which is registered with the Commission may be required to be found suitable if the Commission has reason to believe that his acquisition of the debt security would otherwise be inconsistent with the declared policy of this state.

3. Each person who, individually or in association with others, acquires, directly or indirectly, beneficial ownership of more than 5 percent of any class of voting securities of a publicly traded corporation registered with the Nevada Gaming Commission, and who is required to report, or voluntarily reports, the acquisition to the Securities and Exchange Commission pursuant to section 13(d)(1), 13(g) or 16(a) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. §§ 78m(d)(1), 78m(g) and 78p(a), respectively, shall file a copy of that report, and any amendments thereto, with the Nevada Gaming Commission within 10 days after filing that report with the Securities and Exchange Commission.

4. Each person who, individually or in association with others, acquires, directly or indirectly, the beneficial ownership of more than 10 percent of any class of voting securities of a publicly traded corporation registered with the Commission, or who is required to report, or voluntarily reports, such acquisition pursuant to section 13(d)(1), 13(g) or 16(a) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. §§ 78m(d)(1), 78m(g) and 78p(a), respectively, shall apply to the Commission for a finding of

suitability within 30 days after the Chairman of the Board mails the written notice.

5. A person who acquires ~~Beneficial~~, *directly or indirectly*:

(a) *Beneficial* ownership of any voting security ; or

(b) *Beneficial or record ownership of any nonvoting security or* debt security ,

↪ in a publicly traded corporation created under the laws of a foreign country which is registered with the Commission shall file such reports and is subject to such a finding of suitability as the Commission may prescribe.

6. Any person required by the Commission or by this section to be found suitable shall:

(a) Except as otherwise required in subsection 4, apply for a finding of suitability within 30 days after the Commission requests that he do so; and

(b) Together with the application, deposit with the Board a sum of money which, in the opinion of the Board, will be adequate to pay the anticipated costs and charges incurred in the investigation and processing of the application, and deposit such additional sums as are required by the Board to pay final costs and charges.

7. Any person required by the Commission or this section to be found suitable who is found unsuitable by the Commission shall not hold directly or indirectly the ~~Beneficial~~ :

(a) *Beneficial* ownership of any voting security ; or

(b) *Beneficial or record ownership of any nonvoting security or* debt security ,

↪ of a publicly traded corporation which is registered with the Commission beyond the time prescribed by the Commission.

8. The violation of subsection 6 or 7 is a gross misdemeanor.

9. As used in this section, “debt security” means any instrument generally recognized as a corporate security representing money owed and reflected as debt on the financial statement of a publicly traded corporation, including, but not limited to, bonds, notes and debentures.

Sec. 22. NRS 463.645 is hereby amended to read as follows:

463.645 ~~{+}~~ If any person who is required by or pursuant to this chapter to be licensed or found suitable because of his connection with a corporation, partnership, limited partnership, limited-liability company or other business organization holding a license, or a holding company or intermediary company, including a publicly traded corporation, fails to apply for a license or a finding of suitability after being requested to do so by the Commission or is denied a license or a finding of suitability, or if his license or finding of suitability is revoked, ~~[and his name has been placed on the list maintained pursuant to subsection 8 of NRS 463.165.]~~ the corporation, partnership, limited partnership, limited-liability company, business organization, holding company, intermediary company or any person who directly or indirectly controls, is controlled by or is under common control with the corporation, partnership, limited partnership, limited-liability

company, business organization, holding company or intermediary company shall not, *and any licensee or an affiliate of the licensee shall not*, after receipt of written notice from the Commission:

~~{{(a)}}~~ 1. Pay him any remuneration for any service relating to the activities of a licensee, except for amounts due for services rendered before the date of receipt of notice of such action by the Commission. Any contract or agreement for personal services or the conduct of any activity at a licensed gaming establishment between a former employee whose employment was terminated because of failure to apply for a license or a finding of suitability, denial of a license or finding of suitability, or revocation of a license or a finding of suitability, or any business enterprise under the control of that employee and the licensee, holding or intermediary company or registered publicly traded corporation is subject to termination. Every such agreement shall be deemed to include a provision for its termination without liability on the part of the licensee upon a finding by the Commission that the business or any person associated therewith is unsuitable to be associated with a gaming enterprise. Failure expressly to include such a condition in the agreement is not a defense in any action brought pursuant to this section to terminate the agreement.

~~{{(b)}}~~ 2. Enter into any contract or agreement with him or with a business organization that the licensee knows or under the circumstances reasonably should know is under his control which involves the operations of a licensee, without the prior approval of the Commission.

~~{{(c)}}~~ 3. Employ him in any position involving the activities of a licensee without prior approval of the Commission.

~~[2.—The name of any person who has been denied a license, been found unsuitable or had a license or finding of suitability revoked pursuant to subsection 1 must be included on the list required pursuant to subsection 8 of NRS 463.165.]~~

**Sec. 22.5. NRS 463.650 is hereby amended to read as follows:**

463.650 1. Except as otherwise provided in subsections 2 to 5, inclusive, it is unlawful for any person, either as owner, lessee or employee, whether for hire or not, to operate, carry on, conduct or maintain any form of manufacture, selling or distribution of any gaming device, cashless wagering system, mobile gaming system or interactive gaming system for use or play in Nevada or for distribution outside of Nevada without first procuring and maintaining all required federal, state, county and municipal licenses.

2. A lessor who specifically acquires equipment for a capital lease is not required to be licensed under this section or NRS 463.660.

3. The holder of a state gaming license or the holding company of a corporation, partnership, limited partnership, limited-liability company or other business organization holding a license may, within 2 years after cessation of business or upon specific approval by the Board, dispose of by sale in a manner approved by the Board, any or all of its gaming devices, including slot machines, mobile gaming systems and cashless wagering

systems, without a distributor's license. In cases of bankruptcy of a state gaming licensee or foreclosure of a lien by a bank or other person holding a security interest for which gaming devices are security in whole or in part for the lien, the Board may authorize the disposition of the gaming devices without requiring a distributor's license.

4. The Commission may, by regulation, authorize a person who owns:

- (a) Gaming devices for home use in accordance with NRS 463.160; or
- (b) Antique gaming devices,

↪ to sell such devices without procuring a license therefor to residents of jurisdictions wherein ownership of such devices is legal.

5. Upon approval by the Board, a gaming device owned by:

- (a) A law enforcement agency;
- (b) A court of law; or
- (c) A gaming device repair school licensed by the Commission on

Postsecondary Education,

↪ may be disposed of by sale, in a manner approved by the Board, without a distributor's license. An application for approval must be submitted to the Board in the manner prescribed by the Chairman.

6. Any person who the Commission determines is a suitable person to receive a license under the provisions of this section and NRS 463.660 may be issued a manufacturer's or distributor's license. The burden of proving his qualification to receive or hold a license under this section and NRS 463.660 is at all times on the applicant or licensee.

7. Every person who must be licensed pursuant to this section is subject to the provisions of NRS 463.482 to 463.645, inclusive, unless exempted from those provisions by the Commission.

8. The Commission may exempt, for any purpose, a manufacturer, seller or distributor from the provisions of NRS 463.482 to 463.645, inclusive, if the Commission determines that the exemption is consistent with the purposes of this chapter.

9. As used in this section:

(a) "Antique gaming device" means a gaming device that was manufactured before ~~1951~~, 1961.

(b) "Holding company" has the meaning ascribed to it in NRS 463.485.

Sec. 23. ~~NRS 464.020 is hereby amended to read as follows:~~

~~464.020 1. The Nevada Gaming Commission is charged with the administration of this chapter for the protection of the public and in the public interest.~~

~~2. The Nevada Gaming Commission may issue licenses permitting the conduct of the pari-mutuel system of wagering, including off track pari-mutuel wagering, and may adopt, amend and repeal regulations relating to the conduct of such wagering.~~

~~3. The wagering must be conducted only by the licensee at the times determined by the Nevada Gaming Commission and only:~~



~~(a) Within the enclosure wherein the race or other sporting event which is the subject of the wagering occurs; or~~

~~(b) Within a licensed gaming establishment which has been approved to conduct off track pari mutuel wagering.~~

~~➔ This subsection does not prohibit a person licensed to accept, pursuant to regulations adopted by the Nevada Gaming Commission, off track pari mutuel wagers from accepting wagers made by wire communication from patrons within the State of Nevada, from other states in which such wagering is legal or from places outside the United States in which such wagering is legal. This subsection does not prohibit a patron within the State of Nevada from placing off track pari mutuel wagers by wire communication in other states in which such wagering is legal or in places outside the United States in which such wagering is legal, if such wagers are placed in compliance with all applicable laws and regulations of the state or place outside the United States.~~

~~4. The regulations of the Nevada Gaming Commission may include, without limitation:~~

~~(a) Requiring fingerprinting of an applicant or licensee, or other method of identification.~~

~~(b) Requiring information concerning an applicant's antecedents, habits and character.~~

~~(c) Prescribing the method and form of application which any applicant for a license issued pursuant to this chapter must follow and complete before consideration of his application by the Nevada Gaming Commission.~~

~~(d) Prescribing the permissible communications technology and requiring the implementation of border control technology that will ensure that a person cannot place a wager with a race book in this State from another state or another location where placing such a wager is illegal.~~

~~5. The Nevada Gaming Commission may appoint an Off Track Pari Mutuel Wagering Committee consisting of 11 persons who are licensed to engage in off track pari mutuel wagering. If the Commission appoints such a Committee, it shall appoint to the Committee:~~

~~(a) Five members from a list of nominees provided by the State Association of Gaming Establishments whose members collectively paid the most gross revenue fees to the State pursuant to NRS 463.370 in the preceding year;~~

~~(b) Three members who, in the preceding year, paid gross revenue fees pursuant to NRS 463.370 in an amount that was less than the average amount of gross revenue fees paid by licensees engaged in off track pari mutuel wagering in the preceding year; and~~

~~(c) Three other members.~~

~~➔ If a vacancy occurs in a position on the Committee for any reason, including, but not limited to, termination of a member, the Commission shall appoint a successor member who satisfies the same criteria in paragraph (a), (b) or (c) that applied to the member whose position has been vacated.~~

~~6. If the Nevada Gaming Commission appoints an Off Track Pari Mutuel Wagering Committee pursuant to subsection 5, the Commission shall:~~

~~(a) Grant to the Off Track Pari Mutuel Wagering Committee the exclusive right to negotiate an agreement relating to off track pari mutuel wagering with:~~

~~(1) A person who is licensed or otherwise permitted to operate a wagering pool in another state; and~~

~~(2) A person who is licensed pursuant to chapter 464 of NRS as an operator of a system.~~

~~(b) Require the Off Track Pari Mutuel Wagering Committee to grant to each person licensed pursuant to this chapter to operate an off track pari mutuel race pool the right to receive, on a fair and equitable basis, all services concerning wagering in such a race pool that the Committee has negotiated to bring into or provide within this State.~~

~~7. The Nevada Gaming Commission shall, and it is granted the power to, demand access to and inspect all books and records of any person licensed pursuant to this chapter pertaining to and affecting the subject of the license.]~~

~~(Deleted by amendment.)~~

Sec. 24. NRS 465.080 is hereby amended to read as follows:

465.080 1. It is unlawful for any licensee, employee or other person , *not a duly authorized employee of a licensee acting in furtherance of his employment within an establishment*, to possess, use , *sell or manufacture* counterfeit chips, counterfeit debit instruments or other counterfeit wagering instruments in a gambling game, associated equipment or a cashless wagering system.

2. *It is unlawful for any licensee, employee or other person, not a duly authorized employee of a licensee acting in furtherance of his employment within an establishment, to possess, use, sell or manufacture any counterfeit instruments, counterfeit tickets or other counterfeit items that are used to determine the outcome of any contest or promotional activity conducted by or on behalf of any licensee.*

3. It is unlawful for any person, in playing or using any gambling game, associated equipment or cashless wagering system designed to be played with, receive or be operated by chips, tokens, wagering credits or other wagering instruments approved by the State Gaming Control Board or by lawful coin of the United States of America:

(a) Knowingly to use other than chips, tokens, wagering credits or other wagering instruments approved by the State Gaming Control Board or lawful coin, legal tender of the United States of America, or to use coin or tokens not of the same denomination as the coin or tokens intended to be used in that gambling game, associated equipment or cashless wagering system; or

(b) To use any device or means to violate the provisions of this chapter.

~~{3.}~~ 4. It is unlawful for any person, not a duly authorized employee of a licensee acting in furtherance of his employment within an establishment, to

have on his person or in his possession on or off the premises of any licensed gaming establishment any device intended to be used to violate the provisions of this chapter.

~~{4.}~~ 5. It is unlawful for any person, not a duly authorized employee of a licensee acting in furtherance of his employment within an establishment, to have on his person or in his possession on or off the premises of any licensed gaming establishment any key or device known to have been designed for the purpose of and suitable for opening, entering or affecting the operation of any gambling game, cashless wagering system or drop box, or any electronic or mechanical device connected thereto, or for removing money or other contents therefrom.

~~{5.}~~ 6. It is unlawful for any person, *not a duly authorized employee of a licensee acting in furtherance of his employment within an establishment*, to have on his person or in his possession any paraphernalia for manufacturing slugs. As used in this subsection, “paraphernalia for manufacturing slugs” means the equipment, products and materials that are intended for use or designed for use in manufacturing, producing, fabricating, preparing, testing, analyzing, packaging, storing or concealing a counterfeit facsimile of the chips, tokens, debit instruments or other wagering instruments approved by the State Gaming Control Board or a lawful coin of the United States, the use of which is unlawful pursuant to subsection ~~{2.}~~ 3. The term includes, but is not limited to:

- (a) Lead or lead alloys;
- (b) Molds, forms or similar equipment capable of producing a likeness of a gaming token or United States coin;
- (c) Melting pots or other receptacles;
- (d) Torches;
- (e) Tongs, trimming tools or other similar equipment; and
- (f) Equipment which can be reasonably demonstrated to manufacture facsimiles of debit instruments or wagering instruments approved by the State Gaming Control Board.

~~{6.}~~ 7. Possession of more than one of the devices, equipment, products or materials described in this section permits a rebuttable inference that the possessor intended to use them for cheating.

Sec. 25. ~~[NRS 465.094 is hereby amended to read as follows:~~

~~465.094 The provisions of NRS 465.092 and 465.093 do not apply to a wager placed by a person for his own benefit or, without compensation, for the benefit of another that is accepted or received by, placed with, or sent, transmitted or relayed to:~~

~~1. A race book or sports pool that is licensed pursuant to chapter 463 of NRS, if the wager is accepted or received within this State and otherwise complies with all other applicable laws and regulations concerning wagering;~~

~~2. A person who is licensed to engage in off track pari mutuel wagering pursuant to chapter 464 of NRS, if the wager is accepted or received within~~

~~this State and otherwise complies with subsection 3 of NRS 464.020 and all other applicable laws and regulations concerning wagering;~~

~~3. A person who is licensed to accept off track pari-mutuel horse race wagers in another state in which such wagering is legal or in a place outside the United States in which such wagering is legal, if such wagering complies with all applicable laws and regulations of the state or place outside the United States;~~

~~4. A person who is licensed to operate a mobile gaming system pursuant to chapter 463 of NRS, if the wager is accepted or received within this State and otherwise complies with all other applicable laws and regulations concerning wagering; or~~

~~[4.] 5. Any other person or establishment that is licensed to engage in wagering pursuant to title 41 of NRS, if the wager is accepted or received within this State and otherwise complies with all other applicable laws and regulations concerning wagering.] (Deleted by amendment.)~~

Sec. 26. 1. This section and section 24 of this act become effective upon passage and approval.

2. Sections 1 to 23, inclusive, and 25 of this act become effective on July 1, 2007.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 535.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 142.

The following Senate amendment was read:

Amendment No. 800.

AN ACT relating to ethics in government; requiring certain public officers ~~[and lobbyists]~~ to attend a course on **laws relating to** ethics in government; ~~[requiring lobbyists who lobby the Executive Department of the State Government to file a registration statement and periodic reports with the Secretary of State; requiring the Secretary of State to handle all reports and filings and make investigations under certain circumstances; providing a penalty;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires newly elected or appointed public officers who are required to file statements of financial disclosure ~~[, newly registered lobbyists, and newly employed lobbyists for governmental agencies]~~ to take a course on **laws relating to** governmental ethics that is conducted by the Commission on Ethics.

~~[Section 3.7 of this bill increases penalties for willful violations of certain provisions concerning ethics in government. (NRS 281.551)]~~

~~Existing law sets forth requirements for persons who lobby the Legislature. The lobbyists must register with the Director of the Legislative Counsel~~

~~Bureau and file certain disclosure reports. (NRS 218.900-218.944) In addition to those reports, section 5 of this bill requires legislative lobbyists to file disclosure reports at the end of each calendar quarter in which the Legislature is not in session.~~

~~Sections 8-31 of this bill set forth requirements for persons who lobby the Executive Department of the State Government. Such executive lobbyists must register with the Secretary of State and file certain disclosure reports. The requirements for executive lobbyists parallel those for legislative lobbyists in chapter 218 of NRS.~~ Section 1 of this bill also authorizes the Commission to develop a course on governmental ethics for the public.

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

Section 1. Chapter 281 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. The Commission shall develop a course on laws relating to ethics in government. Each** ~~public~~

~~public officer who is required to file a statement of financial disclosure pursuant to NRS 281.541, 281.559 or 281.561 shall~~ **complete such a course within 6 months after his initial election or appointment to his office.** ~~;~~

~~2. Lobbyist who has filed a registration statement pursuant to NRS 218.918 or section 17 of this act shall, within 30 days after filing the registration statement; and~~

~~3. Public employee whose primary function is to lobby other governmental entities on behalf of his employer shall, within 30 days after his initial employment in such a position, complete a course on ethics in government that is developed by the Commission.~~

**2. The Commission may:**

**(a) Develop and offer to members of the public a course on ethics in government; and**

**(b) Establish and collect a fee for a member of the public to attend the course described in paragraph (a).**

Sec. 2. NRS 281.411 is hereby amended to read as follows:

281.411 NRS 281.411 to 281.581, inclusive, ***and section 1 of this act*** may be cited as the Nevada Ethics in Government Law.

Sec. 3. NRS 281.431 is hereby amended to read as follows:

281.431 As used in NRS 281.411 to 281.581, inclusive, ***and section 1 of this act***, unless the context otherwise requires, the words and terms defined in NRS 281.432 to 281.4375, inclusive, have the meanings ascribed to them in those sections.

Sec. 3.3. ~~NRS 281.501 is hereby amended to read as follows:~~

~~281.501 1. Except as otherwise provided in subsection 2, 3 or 4, a public officer may vote upon a matter if the benefit or detriment accruing to~~

~~him as a result of the decision either individually or in a representative capacity as a member of a general business, profession, occupation or group is not greater than that accruing to any other member of the general business, profession, occupation or group.~~

~~2. Except as otherwise provided in subsection 3, in addition to the requirements of the code of ethical standards, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:~~

~~(a) His seeking or acceptance of a gift or loan;~~

~~(b) His pecuniary interest; or~~

~~(c) His commitment in a private capacity to the interests of others.~~

~~It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his pecuniary interest or his commitment in a private capacity to the interests of others where the resulting benefit or detriment accruing to him or to the other persons whose interests to which the member is committed in a private capacity is not greater than that accruing to any other member of the general business, profession, occupation or group. The presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection 4 relating to the disclosure of the pecuniary interest or commitment in a private capacity to the interests of others.~~

~~3. In a county whose population is 400,000 or more, a member of a county or city planning commission shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:~~

~~(a) His seeking or acceptance of a gift or loan;~~

~~(b) His direct pecuniary interest; or~~

~~(c) His commitment to a member of his household or a person who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity.~~

~~It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his direct pecuniary interest or his commitment described in paragraph (c) where the resulting benefit or detriment accruing to him or to the other persons whose interests to which the member is committed is not greater than that accruing to any other member of the general business, profession, occupation or group. The presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection 4 relating to the disclosure of the direct pecuniary interest or commitment.~~

~~4. A public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon any matter:~~

~~(a) Regarding which he has sought or accepted a gift or loan;~~

~~(b) Which would reasonably be affected by his commitment in a private capacity to the interest of others; or~~

~~(c) In which he has a pecuniary interest;  
 without disclosing sufficient information concerning the gift, loan, commitment or interest to inform the public of the potential effect of the action or abstention upon the person who provided or from whom he sought the gift or loan, upon the person to whom he has a commitment, or upon his interest. Except as otherwise provided in subsection 6, such a disclosure must be made at the time the matter is considered. If the officer or employee is a member of a body which makes decisions, he shall make the disclosure in public to the Chairman and other members of the body. If the officer or employee is not a member of such a body and holds an appointive office, he shall make the disclosure to the supervisory head of his organization or, if he holds an elective office, to the general public in the area from which he is elected. This subsection does not require a public officer to disclose any campaign contributions that the public officer reported pursuant to NRS 294A.120 or 294A.125 in a timely manner.~~

~~5. Except as otherwise provided in NRS 241.0355, if a public officer declares to the body or committee in which the vote is to be taken that he will abstain from voting because of the requirements of this section, the necessary quorum to act upon and the number of votes necessary to act upon the matter, as fixed by any statute, ordinance or rule, is reduced as though the member abstaining were not a member of the body or committee.~~

~~6. After a member of the Legislature makes a disclosure pursuant to subsection 4, he may file with the Director of the Legislative Counsel Bureau a written statement of his disclosure. The written statement must designate the matter to which the disclosure applies. After a Legislator files a written statement pursuant to this subsection, he is not required to disclose orally his interest when the matter is further considered by the Legislature or any committee thereof. A written statement of disclosure is a public record and must be made available for inspection by the public during the regular office hours of the Legislative Counsel Bureau.~~

~~7. The provisions of this section do not, under any circumstances:~~

~~(a) Prohibit a member of the Legislative Branch from requesting or introducing a legislative measure; or~~

~~(b) Require a member of the Legislative Branch to take any particular action before or while requesting or introducing a legislative measure.~~

~~8. As used in this section, "commitment in a private capacity to the interests of others" means a commitment to a person:~~

~~(a) Who is a member of his household;~~

~~(b) Who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity;~~

~~(c) Who employs him or a member of his household;~~

~~(d) With whom he has a substantial and continuing business relationship;~~

~~(e) Any other commitment or relationship that is substantially similar to a commitment or relationship described in this subsection.] (Deleted by amendment.)~~

Sec. 3.7. ~~[NRS 281.551 is hereby amended to read as follows:~~

~~281.551 1. In addition to any other penalty provided by law, the Commission may impose on a public officer or employee or former public officer or employee civil penalties:~~

~~(a) Not to exceed [\$5,000] \$10,000 for a first willful violation of this chapter;~~

~~(b) Not to exceed [\$10,000] \$15,000 for a separate act or event that constitutes a second willful violation of this chapter; and~~

~~(c) Not to exceed [\$25,000] \$30,000 for a separate act or event that constitutes a third willful violation of this chapter.~~

~~2. In addition to other penalties provided by law, the Commission may impose a civil penalty not to exceed \$5,000 and assess an amount equal to the amount of attorney's fees and costs actually and reasonably incurred by the person about whom an opinion was requested pursuant to NRS 281.511 against a person who prevents, interferes with or attempts to prevent or interfere with the discovery or investigation of a violation of this chapter.~~

~~3. If the Commission finds that a violation of a provision of this chapter by a public officer or employee or former public officer or employee has resulted in the realization by another person of a financial benefit, the Commission may, in addition to other penalties provided by law, require the current or former public officer or employee to pay a civil penalty of not more than twice the amount so realized.~~

~~4. If the Commission finds that:~~

~~(a) A willful violation of this chapter has been committed by a public officer removable from office by impeachment only, the Commission shall file a report with the appropriate person responsible for commencing impeachment proceedings as to its finding. The report must contain a statement of the facts alleged to constitute the violation.~~

~~(b) A willful violation of this chapter has been committed by a public officer removable from office pursuant to NRS 283.440, the Commission may file a proceeding in the appropriate court for removal of the officer.~~

~~(c) Three or more willful violations have been committed by a public officer removable from office pursuant to NRS 283.440, the Commission shall file a proceeding in the appropriate court for removal of the officer.~~

~~5. An action taken by a public officer or employee or former public officer or employee relating to NRS 281.481, 281.491, 281.501 or 281.505 is not a willful violation of a provision of those sections if the public officer or employee establishes by sufficient evidence that he satisfied all of the following requirements:~~

~~(a) He relied in good faith upon the advice of the legal counsel retained by the public body which the public officer represents or by the employer of the~~



~~public employee or upon the manual published by the Commission pursuant to NRS 281.471;~~

~~(b) He was unable, through no fault of his own, to obtain an opinion from the Commission before the action was taken; and~~

~~(c) He took action that was not contrary to a prior published opinion issued by the Commission.~~

~~6.—In addition to other penalties provided by law, a public employee who willfully violates a provision of NRS 281.481, 281.491, 281.501 or 281.505 is subject to disciplinary proceedings by his employer and must be referred for action in accordance to the applicable provisions governing his employment.~~

~~7.—NRS 281.481 to 281.541, inclusive, do not abrogate or decrease the effect of the provisions of the Nevada Revised Statutes which define crimes or prescribe punishments with respect to the conduct of public officers or employees. If the Commission finds that a public officer or employee has committed a willful violation of this chapter which it believes may also constitute a criminal offense, the Commission shall refer the matter to the Attorney General or the district attorney, as appropriate, for a determination of whether a crime has been committed that warrants prosecution.~~

~~8.—The imposition of a civil penalty pursuant to subsection 1, 2 or 3 is a final decision for the purposes of judicial review.~~

~~9.—A finding by the Commission that a public officer or employee has violated any provision of this chapter must be supported by a preponderance of the evidence unless a greater burden is otherwise prescribed by law.]~~

**(Deleted by amendment.)**

Sec. 4. ~~[NRS 218.906 is hereby amended to read as follows:~~

~~218.906 "Expenditure" means any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge or subscription of money or anything of value, including the cost of entertainment, except the payment of [a membership fee] membership dues otherwise exempted pursuant to NRS 218.926 and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make any expenditure. [while the Legislature is in session.]]~~ **(Deleted by amendment.)**

Sec. 5. ~~[NRS 218.926 is hereby amended to read as follows:~~

~~218.926 1. Each registrant shall file with the Director within 30 days after the close of the legislative session a final report signed under penalty of perjury concerning his lobbying activities. In addition, each registrant shall file with the Director between the 1st and 10th day of the month [after].~~

~~(a) After each month that the Legislature is in session, a report signed under penalty of perjury concerning his lobbying activities during the previous month, whether or not any expenditures were made.~~

~~(b) After the end of each calendar quarter that the Legislature is not in session, a report signed under penalty of perjury concerning his lobbying activities during the previous quarter, whether or not any expenditures were made.~~

~~2.—Each report filed pursuant to subsection 1 must be on a form prescribed by the Director and must include the total of all expenditures, if any, made by the registrant on behalf of a Legislator or an organization whose primary purpose is to provide support for Legislators of a particular political party and House, including expenditures made by others on behalf of the registrant if the expenditures were made with the registrant's express or implied consent or were ratified by the registrant. Except as otherwise provided in subsection [4.] 5, the report must identify each Legislator and each organization whose primary purpose is to provide support for Legislators of a particular political party and House on whose behalf expenditures were made and must be itemized with respect to each such Legislator and organization. An expenditure on behalf of a person other than a Legislator or an organization whose primary purpose is to provide support for Legislators of a particular political party and House need not be reported pursuant to this section unless the expenditure is made for the benefit of a Legislator or such an organization.~~

~~{2.} 3.—If expenditures made by or on behalf of a registrant during the previous month or quarter, as applicable, exceed \$50, the report must include a compilation of expenditures, itemized in the manner required by the regulations of the Legislative Commission, in the following categories:~~

~~(a) Entertainment;~~

~~(b) Expenditures made in connection with a party or similar event hosted by the organization represented by the registrant;~~

~~(c) Gifts and loans, including money, services and anything of value provided to a Legislator, to an organization whose primary purpose is to provide support for Legislators of a particular political party and House, or to any other person for the benefit of a Legislator or such an organization; and~~

~~(d) Other expenditures directly associated with legislative action, not including personal expenditures for food, lodging and travel expenses or membership dues.~~

~~{3.} 4.—The Legislative Commission may authorize an audit or investigation by the Legislative Auditor that is proper and necessary to verify compliance with the provisions of this section. A lobbyist shall make available to the Legislative Auditor all books, accounts, claims, reports, vouchers and other records requested by the Legislative Auditor in connection with any such audit or investigation. The Legislative Auditor shall confine his requests for such records to those which specifically relate to the lobbyist's compliance with the reporting requirements of this section.~~

~~{4.} 5.—A report filed pursuant to this section must not itemize with respect to each Legislator an expenditure if the expenditure is the cost of a function to which every Legislator was invited. For the purposes of this subsection, "function" means a party, meal or other social event.} (Deleted by amendment.)~~

Sec. 6. ~~{NRS 218.932 is hereby amended to read as follows:~~

~~218.932 1.—The Legislative Commission [shall]—~~

~~(a) Shall adopt regulations to carry out the provisions of NRS 218.900 to 218.944, inclusive [ , may ]~~

~~(b) Shall require fees for registration, payable into the Legislative Fund, and [may] fees for the course on ethics in government that is required pursuant to section 1 of this act, payable to the Commission on Ethics; and~~

~~(c) May classify lobbyists for [this purpose.] the purpose of establishing a schedule of fees.~~

~~2. The Director shall:~~

~~(a) Prepare and furnish forms for the statements and reports required to be filed.~~

~~(b) Prepare and publish uniform methods of accounting and reporting to be used by persons required to file such statements and reports, including guidelines for complying with the reporting requirements of NRS 218.900 to 218.944, inclusive.~~

~~(c) Accept and file any information voluntarily supplied that exceeds the requirements of NRS 218.900 to 218.944, inclusive.~~

~~(d) Develop a filing, coding and cross-indexing system consistent with the purposes of NRS 218.900 to 218.944, inclusive.~~

~~(e) Make the statements and reports available for public inspection during regular office hours.~~

~~(f) Preserve the statements and reports for a period of 5 years [from] after the date of filing.~~

~~(g) Compile and keep current an alphabetical list of registrants, including their address, the name and address of each person for whom the registrant is lobbying and the principal areas of interest on which he expects to lobby. A copy of the list must be furnished to each Legislator, to the clerks of the respective counties for preservation and public inspection, and to any person who requests a copy and pays the cost of reproduction.] (Deleted by amendment.)~~

Sec. 7. ~~{Title 18 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 8 to 31, inclusive, of this act.}~~ (Deleted by amendment.)

Sec. 8. ~~{Sections 8 to 31, inclusive, of this act may be cited as the Nevada Executive Department Lobbying Disclosure Act.}~~ (Deleted by amendment.)

Sec. 9. ~~{The Legislature declares that the operation of responsible government requires that the fullest opportunity be afforded to the people to petition their government for redress of grievances and to express freely to members of the Executive Department of the State Government their opinions on current issues and the management of government affairs.}~~ (Deleted by amendment.)

Sec. 10. ~~{As used in sections 8 to 31, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 11 to 16, inclusive, of this act, have the meanings ascribed to them in those sections.}~~ (Deleted by amendment.)

Sec. 11. ~~{“Executive action” means any official action or duty for which the Executive Department is responsible in establishing policy, but does not include such actions by employees that provide a specific service to the general public.}~~ (Deleted by amendment.)

Sec. 12. ~~{“Executive Department” means the Executive Department of the State Government and includes a constitutional officer, an appointed member of a board or commission, an employee in the unclassified service of the State and an employee with authority to establish policy or effect executive action or with whom final authority rests.}~~ (Deleted by amendment.)

Sec. 13. ~~{“Expenditure” means any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge or subscription of money or anything of value, including the cost of entertainment, except the payment of membership dues otherwise exempted pursuant to section 21 of this act and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make any expenditure.}~~ (Deleted by amendment.)

Sec. 14. ~~{1. “Gift” means a payment, subscription, advance, forbearance, rendering or deposit of money, services or anything of value unless consideration of equal or greater value is received.~~

~~2. “Gift” does not include:~~

~~(a) A political contribution of money or services relating to a political campaign;~~

~~(b) A commercially reasonable loan made in the ordinary course of business;~~

~~(c) The cost of food or beverages;~~

~~(d) Anything of value received from a member of the recipient’s immediate family or from a relative of the recipient or his spouse within the fifth degree of consanguinity or from the spouse of any such relative; or~~

~~(e) Costs and expenses associated with the attendance of a public officer, or the spouse or guest of a public officer, at an event relating to public office or at an event that benefits an organization which the Secretary of the Treasury has determined is an exempt organization pursuant to the provisions of section 501(c) of the Internal Revenue Code, 26 U.S.C. § 501(c).}~~ (Deleted by amendment.)

Sec. 15. ~~{1. “Lobbyist” means, except as limited by subsection 2, a person who:~~

~~(a) Appears in person in a state building or any other building in which the Executive Department conducts business or holds meetings; and~~

~~(b) Communicates directly with the Executive Department on behalf of someone other than himself to influence executive action, and who receives compensation for the communication.~~

~~2. “Lobbyist” does not include:~~

~~(a) Persons who confine their activities to formal appearances before the Executive Department and who clearly identify themselves and the interest or interests for whom they are testifying.~~

~~(b) Employees of a bona fide news medium who meet the definition of "lobbyist" only in the course of their professional duties and who contact the Executive Department for the sole purpose of carrying out their news gathering function.~~

~~(c) Employees or members of any branch of State Government, or of any political subdivision of this State, who confine their lobbying activities to issues directly relating to the scope of their office or employment.~~

~~(d) A person who has been retained as legal counsel for a business or natural person relating to a legal action and who appears as a matter of course relating to the legal action.] (Deleted by amendment.)~~

Sec. 16. ~~["Person" includes a group of persons acting in concert, whether or not formally organized.] (Deleted by amendment.)~~

Sec. 17. ~~[Every person who acts as a lobbyist shall file an annual registration statement with the Secretary of State in such form and at such time as the Secretary of State prescribes. If a person who has not filed an annual registration statement engages in an activity that requires him to register as a lobbyist, he shall, not later than 2 days after the beginning of that activity, file a registration statement. Such registration is effective until the next annual registration period.] (Deleted by amendment.)~~

Sec. 18. ~~[The registration statement of a lobbyist must contain the following information:~~

~~1.—The registrant's full name, permanent address, place of business and temporary address, if any, while lobbying.~~

~~2.—The full name and complete address of each person, if any, by whom the registrant is retained or employed or on whose behalf the registrant appears.~~

~~3.—A listing of any direct business associations or partnerships involving the Executive Department and the registrant or any person by whom the registrant is retained or employed. The listing must include any such association or partnership constituting a source of income or involving a debt or interest in real estate required to be disclosed in a statement of financial disclosure made by a candidate for public office or a public officer pursuant to NRS 281.571.~~

~~4.—The name of any constitutional officer for whom:~~

~~(a) The registrant; or~~

~~(b) Any person by whom the registrant is retained or employed, has, in connection with a political campaign of the constitutional officer, provided consulting, advertising or other professional services.~~

~~5.—A description of the principal areas of interest on which the registrant expects to lobby.~~

~~6.—If the registrant lobbies or purports to lobby on behalf of members, a statement of the number of members.~~

~~7.—A declaration under penalty of perjury that none of the registrant's compensation or reimbursement is contingent, in whole or in part, upon the production of any executive action.~~ (Deleted by amendment.)

Sec. 19. ~~{Each person required to register shall file a notice of termination with the Secretary of State within 30 days after he ceases the activity that required his registration, but this does not relieve him of the reporting requirement for that reporting period. A person who has terminated his registration pursuant to this section may reinstate his registration before the end of the registration period by filing a request for reinstatement on a form prescribed by the Secretary of State and paying the applicable fee.}~~ (Deleted by amendment.)

Sec. 20. ~~{Each person required to register shall file a supplementary registration statement with the Secretary of State not later than 5 days after any change in the registrant's last registration statement. The supplementary registration statement must include complete details concerning the changes that have occurred.}~~ (Deleted by amendment.)

Sec. 21. ~~{1.—Each registrant shall file with the Secretary of State four quarterly reports each year, signed under penalty of perjury, concerning his lobbying activities during the previous quarter, whether or not any expenditures were made. The reports must be submitted not later than 10 days after the end of the quarter, except that the final report for the registration year must be submitted not later than 30 days after the end of the quarter.~~

~~2.—Each report filed pursuant to subsection 1 must be on a form prescribed by the Secretary of State and must include the total of all expenditures, if any, made by the registrant on behalf of the Executive Department, including expenditures made by others on behalf of the registrant if the expenditures were made with the registrant's express or implied consent or were ratified by the registrant. Except as otherwise provided in subsection 5, the report must be itemized and identify the constitutional officer, agency, bureau, board, commission, department, division, officer, employee, agent or other unit of the Executive Department on whose behalf expenditures were made. An expenditure on behalf of a person other than the Executive Department or an organization whose primary purpose is to provide support for the Executive Department need not be reported pursuant to this section unless the expenditure is made for the benefit of the Executive Department or such an organization.~~

~~3.—If expenditures made by or on behalf of a registrant during the previous quarter exceed \$50, the report must include a compilation of expenditures, itemized in the manner required by the regulations of the Secretary of State, in the following categories:~~

~~(a) Entertainment;~~

~~(b) Expenditures made in connection with a party or similar event hosted by the organization represented by the registrant;~~

~~(c) Gifts and loans, including money, services and anything of value provided to the Executive Department, to an organization whose primary purpose is to provide support for the Executive Department, or to any other person for the benefit of the Executive Department or such an organization; and~~

~~(d) Other expenditures directly associated with executive action, not including personal expenditures for food, lodging and travel expenses or membership dues.~~

~~4. The Secretary of State may authorize an audit or investigation by the Attorney General or State Controller that is proper and necessary to verify compliance with the provisions of this section. A lobbyist shall make available to the Attorney General or State Controller all books, accounts, claims, reports, vouchers and other records requested by the Attorney General or State Controller in connection with any such audit or investigation. The Attorney General or State Controller shall confine his requests for such records to those which specifically relate to the lobbyist's compliance with the reporting requirements of this section.~~

~~5. A report filed pursuant to this section must not itemize with respect to each constitutional officer, agency, bureau, board, commission, department, division, officer, employee, agent or other unit of the Executive Department an expenditure if the expenditure is the cost of a function to which any of those persons or agencies were invited. For the purposes of this subsection, "function" means a party, meal or other social event.~~ (Deleted by amendment.)

Sec. 22. ~~{1. The Secretary of State shall furnish an appropriate identification badge to each lobbyist who files a registration statement under this chapter.~~

~~2. The identification badge must be worn by the lobbyist whenever he appears in a state building or other building in which the Executive Department conducts business or holds meetings.~~ (Deleted by amendment.)

Sec. 23. ~~{1. The Secretary of State shall:~~

~~(a) Inspect each statement and report filed within 10 days after its filing;~~

~~(b) Immediately notify the person who has filed:~~

~~(1) If the information filed does not conform to law;~~

~~(2) If a written complaint has been filed with the Secretary of State by any person alleging an irregularity or lack of truth as to the information filed.~~

~~2. The Secretary of State may notify any person of the filing requirement who the Secretary of State has reason to believe has failed to file any statement or report as required.~~ (Deleted by amendment.)

Sec. 24. ~~{1. The Secretary of State:~~

~~(a) Shall adopt regulations to carry out the provisions of sections 8 to 31, inclusive, of this act;~~

~~(b) Shall require fees for registration or reinstatement of registration, payable to the Secretary of State, and fees for the course on ethics in government that is required pursuant to section 1 of this act, payable to the Commission on Ethics; and~~

~~(c) May classify lobbyists for the purpose of establishing a schedule of fees.~~

~~2. The Secretary of State shall:~~

~~(a) Prepare and furnish forms for the statements and reports required to be filed.~~

~~(b) Prepare and publish uniform methods of accounting and reporting to be used by persons required to file such statements and reports, including guidelines for complying with the reporting requirements of sections 8 to 31, inclusive, of this act.~~

~~(c) Accept and file any information voluntarily supplied that exceeds the requirements of sections 8 to 31, inclusive, of this act.~~

~~(d) Develop a filing, coding and cross indexing system consistent with the purposes of sections 8 to 31, inclusive, of this act.~~

~~(e) Make the statements and reports available for public inspection during regular office hours and on the Secretary of State's Internet website.~~

~~(f) Preserve the statements and reports for a period of 5 years after the date of filing.~~

~~(g) Compile and keep current an alphabetical list of registrants, including their addresses, the name and address of each person for whom the registrant is lobbying and the principal areas of interest on which he expects to lobby.] (Deleted by amendment.)~~

Sec. 25. ~~{The Secretary of State may:~~

~~1. Prepare and publish such reports concerning lobbying activities as he deems appropriate.~~

~~2. Release to the public the name of any lobbyist who fails to file any activity report within 14 days after the date it is required to be filed.~~

~~3. Revoke the registration of any lobbyist who fails to file any activity report within 30 days after the date it is required to be filed or fails to file two or more activity reports within the time required.] (Deleted by amendment.)~~

Sec. 26. ~~{1. The Secretary of State shall:~~

~~(a) Make investigations on his own initiative with respect to the failure of any person to file a required statement or report.~~

~~(b) Make an investigation upon the written complaint of any person alleging a violation of any provision of sections 8 to 31, inclusive, of this act.~~

~~(c) Report suspected violations of law to the Attorney General who shall investigate and take any action necessary to carry out the provisions of sections 8 to 31, inclusive, of this act.~~

~~2. If an investigation by the Secretary of State reveals a violation of any provision of sections 8 to 31, inclusive, of this act, by a lobbyist, the Secretary of State may suspend the lobbyist's registration for a specified~~



~~period or revoke his registration. The Secretary of State shall cause notice of his action to be given to each person who employs or uses the lobbyist.~~

~~3. A lobbyist whose registration is suspended or revoked by the Secretary of State may:~~

~~(a) Request a hearing on the matter before the Secretary of State; and~~

~~(b) Appeal to a hearing officer of the Department of Administration from any adverse decision of the Secretary of State.~~

~~4. A lobbyist whose registration is revoked may, with the consent of the Secretary of State, renew his registration if he:~~

~~(a) Files a registration statement in the form required by section 18 of this act;~~

~~(b) Pays any fee for late filing owed pursuant to section 28 of this act, plus the fee for registration prescribed by the Secretary of State; and~~

~~(c) If the revocation occurred because of his failure to file an activity report, files that report.] (Deleted by amendment.)~~

Sec. 27. ~~[The district courts may issue injunctions to enforce the provisions of sections 8 to 31, inclusive, of this act upon application by the Attorney General.] (Deleted by amendment.)~~

Sec. 28. ~~[1. Except as otherwise provided in this subsection, a registrant who files an activity report after the time provided in section 21 of this act shall pay to the Secretary of State a fee for late filing of \$10 for each day that it was late, but the Secretary of State may reduce or waive this fee upon a finding of just cause. The Secretary of State may by regulation exempt a classification of lobbyist from the fee for late filing.~~

~~2. An activity report with respect to which a late filing fee has been paid by the registrant or waived by the Secretary of State shall be deemed timely filed, and the late filing is not a public offense.] (Deleted by amendment.)~~

Sec. 29. ~~[1. A lobbyist shall not:~~

~~(a) Indicate that he has authorization from the Executive Department to request professional services from an officer or employee of state government unless he has such authority; or~~

~~(b) Misrepresent the scope of the authorization that he has from the Executive Department to request professional services from an officer or employee of state government.~~

~~2. As used in this section, "professional services" means engaging in work for which an officer or employee is professionally trained or qualified.] (Deleted by amendment.)~~

Sec. 30. ~~[1. A lobbyist shall not knowingly or willfully make any false statement or misrepresentation of facts:~~

~~(a) To the Executive Department in an effort to persuade or influence executive action;~~

~~(b) In a registration statement or report concerning lobbying activities filed with the Secretary of State.~~

~~2.—A lobbyist shall not give to a member of the Executive Department or a member of his immediate family gifts that exceed \$100 in value in the aggregate in any calendar year.~~

~~3.—A member of the Executive Department or a member of his immediate family shall not solicit anything of value from a registrant or accept any gift that exceeds \$100 in aggregate value in any calendar year.~~

~~4.—A person who employs or uses a lobbyist shall not make that lobbyist's compensation or reimbursement contingent in any manner upon the outcome of any executive action.~~

~~5.—Except during the period permitted by section 17 of this act, a person shall not knowingly act as a lobbyist without being registered as required by that section.~~

~~6.—Except as otherwise provided in subsection 7, a member of the Legislative Branch of the State Government or the Executive Department and an elected officer or employee of a political subdivision shall not receive compensation or reimbursement other than from the State or the political subdivision for personally engaging in lobbying.~~

~~7.—An elected officer or employee of a political subdivision may receive compensation or reimbursement from any organization whose membership consists of elected or appointed public officers.~~

~~8.—A lobbyist shall not instigate any executive action for the purpose of obtaining employment to lobby in opposition thereto.~~

~~9.—A lobbyist shall not make, commit to make or offer to make a monetary contribution to a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor elect, the Governor or the Governor elect during the period beginning:~~

~~(a) Thirty days before a regular session of the Legislature and ending 30 days after the final adjournment of a regular session of the Legislature;~~

~~(b) Fifteen days before a special session of the Legislature is set to commence and ending 15 days after the final adjournment of a special session of the Legislature, if the Governor sets a specific date for the commencement of the special session that is more than 15 days after the Governor issues the proclamation calling for the special session; or~~

~~(c) The day after the Governor issues a proclamation calling for a special session of the Legislature and ending 15 days after the final adjournment of a special session of the Legislature if the Governor sets a specific date for the commencement of the special session that is 15 or fewer days after the Governor issues the proclamation calling for the special session.] (Deleted by amendment.)~~

~~Sec. 31. [Any person subject to any of the provisions contained in section 30 of this act who refuses or fails to comply therewith is guilty of a misdemeanor.] (Deleted by amendment.)~~

**Sec. 32.** The Legislature declares that lobbyists are hereby encouraged to complete a course on laws relating to ethics in government offered by the Commission on Ethics.

~~[Sec. 32.]~~ *Sec. 33.* The provisions of section 1 of this act do not apply to any public officer elected or appointed to his office before October 1, 2007. ~~[A public employee who is employed on October 1, 2007, in a position whose primary function is to lobby other governmental entities on behalf of his employer shall complete the course on ethics in government required pursuant to section 1 of this act on or before January 1, 2008.]~~

Assemblywoman Koivisto moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 142.

Remarks by Assemblywoman Koivisto.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 143.

The following Senate amendment was read:

Amendment No. 799.

AN ACT relating to the Commission on Ethics; requiring the Commission to render certain opinions within a certain period; increasing the time within which the Executive Director of the Commission is required to complete his investigation of the facts and circumstances relating to certain requests for an opinion; ~~[requiring the Commission to disclose the general status of such a request for an opinion to the person who made the request.]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a public officer or employee to request from the Commission on Ethics an opinion interpreting the statutory ethical standards and applying those standards to a particular set of facts and circumstances which directly relate to the propriety of his own past, present or future conduct as an officer or employee. (NRS 281.511) This bill requires the Commission to render the opinion **as soon as practicable or** within 45 days after receiving the request.

Existing law also authorizes certain other persons to request from the Commission an opinion interpreting the statutory ethical standards and applying those standards to a particular set of facts and circumstances. Upon receipt of such a request, the Executive Director of the Commission must investigate the facts and circumstances relating to the request and determine whether there is just and sufficient cause for the Commission to render an opinion in the matter. The Executive Director has 45 days after the receipt of the request to investigate and present his recommendation to a panel of the Commission. (NRS 281.511) This bill increases from 45 days to ~~[420]~~ **60** days the period given the Executive Director to make his investigation and present his recommendation to a panel of the Commission. ~~[This bill also requires the Commission to disclose the general status of such a request for an opinion to the person who made the request.]~~

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

Section 1. NRS 281.511 is hereby amended to read as follows:

281.511 1. The Commission shall render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances ~~upon~~ **as soon as practicable or within 45 days after receiving a request, whichever is sooner,** on a form prescribed by the Commission, from a public officer or employee who is seeking guidance on questions which directly relate to the propriety of his own past, present or future conduct as an officer or employee. He may also request the Commission to hold a public hearing regarding the requested opinion. If a requested opinion relates to the propriety of his own present or future conduct, the opinion of the Commission is:

(a) Binding upon the requester as to his future conduct; and  
 (b) Final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance of persons other than those necessary to the proceeding, unless this right to confidential proceedings is waived by the requester.

2. The Commission may render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances:

(a) Upon request from a specialized or local ethics committee.  
 (b) Except as otherwise provided in this subsection, upon request from a person, if the requester submits:

(1) The request on a form prescribed by the Commission; and  
 (2) All related evidence deemed necessary by the Executive Director and the panel to make a determination of whether there is just and sufficient cause to render an opinion in the matter.

(c) Upon the Commission's own motion regarding the propriety of conduct by a public officer or employee. The Commission shall not initiate proceedings pursuant to this paragraph based solely upon an anonymous complaint.

➡ The Commission shall not render an opinion interpreting the statutory ethical standards or apply those standards to a given set of facts and circumstances if the request is submitted by a person who is incarcerated in a correctional facility in this State.

3. Upon receipt of a request for an opinion by the Commission or upon the motion of the Commission pursuant to subsection 2, the Executive Director shall investigate the facts and circumstances relating to the request to determine whether there is just and sufficient cause for the Commission to render an opinion in the matter. The public officer or employee that is the subject of the request may submit to the Executive Director any information relevant to the request. The Executive Director shall complete an investigation and present his recommendation relating to just and sufficient cause to the panel within ~~{45 days}~~ ~~{120}~~ **60 days** after the receipt of or the motion of the Commission for the request, unless the public officer or employee waives this time limit. If the Executive Director determines after

an investigation that just and sufficient cause exists for the Commission to render an opinion in the matter, he shall state such a recommendation in writing, including, without limitation, the specific evidence that supports his recommendation. If, after an investigation, the Executive Director does not determine that just and sufficient cause exists for the Commission to render an opinion in the matter, he shall state such a recommendation in writing, including, without limitation, the specific reasons for his recommendation. Within 15 days after the Executive Director has provided his recommendation in the matter to the panel, the panel shall make a final determination regarding whether just and sufficient cause exists for the Commission to render an opinion in the matter, unless the public officer or employee waives this time limit. The panel shall not determine that there is just and sufficient cause for the Commission to render an opinion unless the panel has provided the public officer or employee an opportunity to respond to the allegations against him. The panel shall cause a record of its proceedings in each matter to be kept, and such a record must remain confidential until the panel determines whether there is just and sufficient cause for the Commission to render an opinion in the matter.

4. If the panel determines that just and sufficient cause exists for the Commission to render an opinion requested pursuant to this section, the Commission shall hold a hearing and render an opinion in the matter within 30 days after the determination of just and sufficient cause by the panel, unless the public officer or employee waives this time limit.

5. Each request for an opinion that a public officer or employee submits to the Commission pursuant to subsection 1, each opinion rendered by the Commission in response to such a request and any motion, determination, evidence or record of a hearing relating to such a request are confidential unless the public officer or employee who requested the opinion:

(a) Acts in contravention of the opinion, in which case the Commission may disclose the request for the opinion, the contents of the opinion and any motion, evidence or record of a hearing related thereto;

(b) Discloses the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto; or

(c) Requests the Commission to disclose the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto.

6. Except as otherwise provided in this subsection, each document in the possession of the Commission or its staff that is related to a request for an opinion regarding a public officer or employee submitted to or initiated by the Commission pursuant to subsection 2, including, without limitation, the Commission's copy of the request and all materials and information gathered in an investigation of the request, is confidential until the panel determines whether there is just and sufficient cause to render an opinion in the matter. The public officer or employee who is the subject of a request for an opinion submitted or initiated pursuant to subsection 2 may in writing authorize the

Commission to make its files, material and information which are related to the request publicly available.

7. Except as otherwise provided in paragraphs (a) and (b), the proceedings of a panel are confidential until the panel determines whether there is just and sufficient cause to render an opinion. A person who:

(a) Requests an opinion from the Commission pursuant to paragraph (b) of subsection 2 may:

(1) At any time, reveal to a third party the alleged conduct of a public officer or employee underlying the request that he filed with the Commission or the substance of testimony, if any, that he gave before the Commission.

(2) After the panel determines whether there is just and sufficient cause to render an opinion in the matter, reveal to a third party the fact that he requested an opinion from the Commission.

(b) Gives testimony before the Commission may:

(1) At any time, reveal to a third party the substance of testimony that he gave before the Commission.

(2) After the panel determines whether there is just and sufficient cause to render an opinion in the matter, reveal to a third party the fact that he gave testimony before the Commission.

8. ~~The Commission shall disclose to a person who requests an opinion from the Commission pursuant to paragraph (b) of subsection 2 the general status of his request, including, without limitation, whether the request has been received and an abbreviated summary of the actions that the Commission is taking with regard to the request. The provisions of this subsection do not require the Commission, its officers or members to provide, and do not authorize or entitle a person requesting an opinion to obtain:~~

~~(a) Personally identifying information concerning a person other than the requester of the opinion;~~

~~(b) Information that is confidential;~~

~~(c) Information that is otherwise protected from disclosure by any other provision of federal or state law; or~~

~~(d) Information the release of which, as determined by the Executive Director, would interfere with:~~

~~(1) The ability of the Executive Director to conduct an investigation;~~

~~(2) The ability of a panel to determine whether there is just and sufficient cause for the Commission to render an opinion; or~~

~~(3) The ability of the Commission to render an opinion.~~

~~9.~~ Whenever the Commission holds a hearing pursuant to this section, the Commission shall:

(a) Notify the person about whom the opinion was requested of the place and time of the Commission's hearing on the matter;

(b) Allow the person to be represented by counsel; and

(c) Allow the person to hear the evidence presented to the Commission and to respond and present evidence on his own behalf.

↪ The Commission's hearing may be held no sooner than 10 days after the notice is given unless the person agrees to a shorter time.

9. ~~10.~~ If a person who is not a party to a hearing before the Commission, including, without limitation, a person who has requested an opinion pursuant to paragraph (a) or (b) of subsection 2, wishes to ask a question of a witness at the hearing, the person must submit the question to the Executive Director in writing. The Executive Director may submit the question to the Commission if he deems the question relevant and appropriate. This subsection does not require the Commission to ask any question submitted by a person who is not a party to the proceeding.

10. ~~11.~~ If a person who requests an opinion pursuant to subsection 1 or 2 does not:

- (a) Submit all necessary information to the Commission; and
- (b) Declare by oath or affirmation that he will testify truthfully,

↪ the Commission may decline to render an opinion.

11. ~~12.~~ For good cause shown, the Commission may take testimony from a person by telephone or video conference.

12. ~~13.~~ For the purposes of NRS 41.032, the members of the Commission and its employees shall be deemed to be exercising or performing a discretionary function or duty when taking an action related to the rendering of an opinion pursuant to this section.

13. ~~14.~~ A meeting or hearing that the Commission or the panel holds to receive information or evidence concerning the propriety of the conduct of a public officer or employee pursuant to this section and the deliberations of the Commission and the panel on such information or evidence are not subject to the provisions of chapter 241 of NRS.

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

Assemblywoman Koivisto moved that the Assembly concur in the Senate amendment to Assembly Bill No. 143.

Remarks by Assemblywoman Koivisto.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 342.

The following Senate amendment was read:

Amendment No. 798.

AN ACT relating to elections; providing under certain circumstances that a registered voter who lives in a mailing precinct or an absent ballot mailing precinct of a county who has received a mailing ballot may vote in person at the office of the county clerk or at designated polling places on election day or at polling places during the period for early voting; requiring certain county clerks to designate at least one polling place to be the polling place ~~to which~~ **where** any registered voter who lives in any of the mailing precincts or absent ballot mailing precincts of the county may ~~apply to~~ vote in person

on election day; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 4 of this bill requires county clerks in counties with a population of 100,000 or more to designate at least one polling place in the county as the polling place where a person who lives in a mailing precinct or an absent ballot mailing precinct may vote in person on election day. In counties with a population of less than 100,000, section 4 provides that a county clerk may, but is not required to, designate such a polling place. Section 6 **of this bill** prohibits the return of a mailing ballot by any person other than the registered voter to whom the ballot was sent unless a family member returns the ballot at the request of the voter. A person who violates this provision is guilty of a category E felony.

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 293.343 is hereby amended to read as follows:

293.343 1. A registered voter who resides in an election precinct in which there were not more than 200 voters registered for the last preceding general election, or in a precinct in which it appears to the satisfaction of the county clerk that there are not more than 200 registered voters, may vote at any election regulated by this chapter in the manner provided in NRS 293.345 to 293.355, inclusive.

2. Whenever the county clerk has designated a precinct as a mailing precinct, registered voters residing in that precinct may vote at any election regulated by this chapter in the manner provided in NRS 293.345 to 293.355, inclusive.

3. *In a county whose population is 100,000 or more, whenever a registered voter is entitled to vote in a mailing precinct or an absent ballot mailing precinct, the county clerk:*

*(a) Shall designate at least one polling place in the county as the polling place ~~to which~~ where such a voter may ~~apply to~~ vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, on election day; and*

*(b) May designate certain polling places for early voting as the polling places ~~to which~~ where such a voter may ~~apply to~~ vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, during the period for early voting, if it is impractical for the county clerk to provide at each polling place for early voting a ballot in every form required in the county.*



4. *In a county whose population is less than 100,000, whenever a registered voter is entitled to vote in a mailing precinct or an absent ballot mailing precinct, the county clerk:*

(a) *May designate one or more polling places in the county as the polling place ~~to which~~ where such a voter may ~~apply to~~ vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, on election day; and*

(b) *May designate certain polling places for early voting as the polling places ~~to which~~ where such a voter may ~~apply to~~ vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, during the period for early voting, if it is impractical for the county clerk to provide at each polling place for early voting a ballot in every form required in the county.*

5. *Polling places designated pursuant to subsection 3 or 4 may include, without limitation, polling places located as closely as practicable to the mailing precincts.*

Sec. 5. NRS 293.345 is hereby amended to read as follows:

293.345 ~~{The}~~

1. *Before 5 p.m. on the last business day preceding the first day of the period for early voting for any primary election or general election, the county clerk shall ~~mail~~ cause to be mailed to each registered voter in each mailing precinct and in each absent ballot mailing precinct ~~{, before 5 p.m. on the second Thursday before the primary election and before 5 p.m. on the fourth Tuesday in October of any year in which a general election is to be held,}~~ an official mailing ballot to be voted by him at the election ~~{,}~~, and accompanying supplies, as specified in NRS 293.350.*

2. *If the county clerk has designated, pursuant to subsection 3 or 4 of NRS 293.343, one or more polling places ~~to which~~ where a voter may ~~apply to~~ vote in person, the official ballot and the sample ballot must include a notice in bold type informing the voter of the location of the designated polling place or polling places on election day and the polling places during the period for early voting ~~to which~~ where the voter may ~~apply to~~ vote in person pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353.*

Sec. 6. NRS 293.353 is hereby amended to read as follows:

293.353 ~~{Upon}~~

1. *Except as otherwise provided in subsection 2 or 3, upon receipt of a mailing ballot from the county clerk, the registered voter must ~~{~~*

~~1. Except as otherwise provided in subsection 2:~~

(a) ~~Immediately after opening the envelope,}~~ *in accordance with the instructions, mark and fold the ballot ~~{~~*

(b) ~~Place the ballot}~~ *, if it is a paper ballot, or punch it and leave it unfolded, if the ballot is voted by punching a card, deposit and seal the ballot in the return envelope ~~{~~*

(c) ~~Affix}~~ *, affix his signature on the back of the envelope ~~{, and~~*

~~(d) Mail or deliver}~~ *and mail* the envelope to the county clerk.

2. ~~[In those counties using a mechanical voting system whereby a vote is cast by punching a card:~~

~~(a) Immediately after opening the envelope, punch the card;~~

~~(b) Place the unfolded card in the return envelope;~~

~~(c) Affix his signature on the back of the envelope; and~~

~~(d) Mail or deliver the envelope to the county clerk.]~~ *Except as otherwise provided in subsection 3, if a registered voter who has received a mailing ballot applies to vote in person at:*

*(a) The office of the county clerk, he must mark or punch the ballot, place and seal it in the return envelope and affix his signature in the same manner as provided in subsection 1, and deliver the envelope to the clerk.*

*(b) One of the polling places on election day or a polling place for early voting in the county designated pursuant to subsection 3 or 4 of NRS 293.343, he must surrender the mailing ballot and provide satisfactory identification before being issued a ballot to vote at the polling place. A person who receives a surrendered mailing ballot shall mark it "Cancelled."*

3. *If a registered voter who has received a mailing ballot ~~[applies]~~ wishes to vote in person at the office of the county clerk or at one of the polling places on election day or a polling place for early voting in the county designated pursuant to subsection 3 or 4 of NRS 293.343, and the voter does not have the mailing ballot to deliver or surrender, the voter must be issued a ballot to vote if the voter:*

*(a) Provides satisfactory identification;*

*(b) Is a registered voter who is otherwise entitled to vote; and*

*(c) Signs an affirmation under penalty of perjury on a form prepared by the Secretary of State declaring that the voter has not voted during the election.*

4. *It is unlawful for any person to return a mailing ballot other than the registered voter to whom the ballot was sent or, at the request of the voter, a member of the family of that voter. A person who returns a mailing ballot and who is a member of the family of the voter who received the mailing ballot shall, under penalty of perjury, indicate on a form prescribed by the county clerk that he is a member of the family of the voter who received the mailing ballot and that the voter requested that he return the mailing ballot. A person who violates the provisions of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.*

Sec. 7. NRS 293.355 is hereby amended to read as follows:

293.355 1. Upon receipt of the return envelope from ~~[the]~~ a registered voter ~~[+] of a mailing precinct or absent ballot mailing precinct, whether through the mail or in person at the office of the county clerk pursuant to paragraph (a) of subsection 2 of NRS 293.353,~~ the county clerk shall follow the same procedure as in the case of absent ballots.

*2. Ballots voted in person at a polling place pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, or at the office of the county clerk pursuant to subsection 3 of NRS 293.353, by registered voters of a mailing precinct or absent ballot mailing precinct must be processed and reported by the appointed election board or county clerk in the same manner as required by law for absent ballots voted in person pursuant to NRS 293.330.*

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Assemblywoman Koivisto moved that the Assembly concur in the Senate amendment to Assembly Bill No. 342.

Remarks by Assemblywoman Koivisto.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 517.

The following Senate amendment was read:

Amendment No. 867.

AN ACT relating to elections; eliminating various obsolete provisions; providing that a voter registration card does not provide proof of the identity, address or residence of a person; **authorizing certain registered voters to submit absent ballots by facsimile machine**; revising the definition of “candidate” for the purposes of requirements relating to campaign finance; requiring that the signatures on a petition for an initiative or referendum must be submitted to each county clerk on the same day if circulated in more than one county; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law makes various references to punch card ballots and the duties of various persons in relation to punch card ballots. (Title 24 of NRS) Sections 1, 3, 4, 7-20, 24-31, 33, 35-48, 50-53 and 57-59 of this bill eliminate these provisions.

Existing law requires a person to furnish proof of identity or residence when filing a declaration or acceptance of candidacy, when registering to vote or when voting in certain circumstances. (NRS 293.177, 293.2725, 293.303, 293.517, 293.541, 293C.185, 293C.292) Sections 2, 5, 6, 21, 22, 32 and 34 of this bill provide that a voter registration card does not provide proof of address, identity or residence.

**Existing law authorizes any registered voter who resides outside the continental United States to use a facsimile machine to request an absent**

**ballot. The county clerk shall use a facsimile machine to send an absent ballot to the registered voter, and the registered voter is required to return his absent ballot by mail. (NRS 293.3157) Sections 7.5 and 35.5 of this bill authorize a registered voter who resides outside the continental United States and uses a facsimile machine to request an absent ballot and to choose whether to return the ballot by facsimile or mail.**

Existing law requires that a sample ballot be mailed to each registered voter before the period for early voting at an election begins, but not later than 10 days before the election. (NRS 293.565, 293C.530) Sections 23 and 49 of this bill require that the sample ballots be mailed before the period of early voting for the election begins.

Existing law defines the term “candidate” for the purposes of the campaign finance laws to include anyone who has filed a declaration or acceptance of candidacy, anyone whose name appears on an official ballot or anyone who has accepted more than \$100. (NRS 294A.005) Section 54 of this bill clarifies that a candidate is anyone who has accepted more than \$100, regardless of whether the person has filed a declaration or acceptance of candidacy or whether the name of the person appears on an official ballot.

Existing law requires that all documents submitted to a county clerk for signature verification on a petition for an initiative or referendum must be submitted at the same time. (NRS 295.056) Section 55 of this bill requires that all documents submitted for signature verification on a petition for an initiative or referendum which was circulated in more than one county must be submitted to each county clerk on the same day.

Existing law authorizes the Secretary of State to issue a fictitious address to a person who has been the victim of domestic violence, sexual assault or stalking. (NRS 217.462-217.471) The Secretary of State is authorized to cancel the fictitious address of a person in certain circumstances. (NRS 217.468) Section 56 of this bill provides that the Secretary of State may cancel a fictitious address if the person files a declaration or acceptance of candidacy.

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

Section 1. NRS 293.025 is hereby amended to read as follows:

293.025 “Ballot” means the record of a voter’s preference of candidates and questions voted upon at an election. The term includes, without limitation, any paper given to a voter upon which he places his vote ~~[-, a punch card which records the vote of a voter]~~ and electronic storage tapes.

Sec. 2. NRS 293.177 is hereby amended to read as follows:

293.177 1. Except as otherwise provided in NRS 293.165, a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than the first

Monday in May of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in May.

2. A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:

(a) For partisan office:

DECLARATION OF CANDIDACY OF .... FOR THE  
OFFICE OF .....  
State of Nevada  
County of

For the purpose of having my name placed on the official ballot as a candidate for the ..... Party nomination for the office of ....., I, the undersigned ....., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ....., in the City or Town of ....., County of ....., State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am registered as a member of the ..... Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since September 1 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the ..... Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and that I understand that my name will appear on all ballots as designated in this declaration.

(Designation of name)

(Signature of candidate for office)

Subscribed and sworn to before me  
this ... day of the month of ... of the year ...

Notary Public or other person

authorized to administer an oath

(b) For nonpartisan office:

DECLARATION OF CANDIDACY OF .... FOR THE

OFFICE OF .....

State of Nevada

County of

For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, the undersigned ....., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ....., in the City or Town of ....., County of ....., State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is ....; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

(Designation of name)

(Signature of candidate for office)

Subscribed and sworn to before me

this ... day of the month of ... of the year ...

Notary Public or other person

authorized to administer an oath

3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where he actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:

(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his residence; or

(b) The candidate does not present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including ~~[-without limitation,]~~ a check ~~[-]~~ which indicates the candidate's name and residential address ~~[-]~~, ***but not including a voter registration card issued pursuant to NRS 293.517.***

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number or driver's license or identification card number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at his specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.

6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether he has had his civil rights restored by a court of competent jurisdiction; and

(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of State, or to the district attorney, if the filing officer is a person other than the Secretary of State.

7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

Sec. 3. NRS 293.262 is hereby amended to read as follows:

293.262 An absent ballot or a ballot voted by a voter who resides in a mailing precinct must be voted:

1. On a paper ballot ~~[-]~~;
- ~~2. On a ballot which is voted by punching a card; or~~
- ~~3. [-] ; or~~
2. By any other system authorized by state or federal law.

Sec. 4. NRS 293.2693 is hereby amended to read as follows:

293.2693 If a county or city uses paper ballots , ~~for punch cards in an election,~~ including, without limitation, for absent ballots and ballots voted in a mailing precinct, the county or city clerk shall provide a voter education program specific to the voting system used by the county or city. The voter education program must include, without limitation, information concerning the effect of overvoting and the procedures for correcting a vote on a ballot before it is cast and counted and for obtaining a replacement ballot.

Sec. 5. NRS 293.2725 is hereby amended to read as follows:

293.2725 1. Except as otherwise provided in subsection 2, in NRS 293.3081 and 293.3083 and in federal law, a person who registers by mail to vote in this State and who has not previously voted in an election for federal office in this State:

(a) May vote at a polling place only if the person presents to the election board officer at the polling place:

- (1) A current and valid photo identification of the person; or
- (2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including ~~[-, without limitation,]~~ a check ~~[-]~~ which indicates the name and address of the person ~~[-]~~ , **but not including a voter registration card issued pursuant to NRS 293.517;** and

(b) May vote by mail only if the person provides to the county or city clerk:

- (1) A copy of a current and valid photo identification of the person; or
- (2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including ~~[-, without limitation,]~~ a check ~~[-]~~ which indicates the name and address of the person ~~[-]~~ , **but not including a voter registration card issued pursuant to NRS 293.517.**

2. The provisions of this section do not apply to a person who:

(a) Registers to vote by mail and submits with his application to register to vote:

- (1) A copy of a current and valid photo identification; or
- (2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including ~~[-, without limitation,]~~ a check ~~[-]~~ which indicates the name and address of the person ~~[-]~~ , **but not including a voter registration card issued pursuant to NRS 293.517;**

(b) Registers to vote by mail and submits with his application to register to vote a driver's license number or at least the last four digits of his social security number, if a state or local election official has matched that



information with an existing identification record bearing the same number, name and date of birth as provided by the person in his application;

(c) Is entitled to vote an absent ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq.;

(d) Is provided the right to vote otherwise than in person under the Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C. §§ 1973ee et seq.; or

(e) Is entitled to vote otherwise than in person under any other federal law.

Sec. 6. NRS 293.303 is hereby amended to read as follows:

293.303 1. A person applying to vote may be challenged:

(a) Orally by any registered voter of the precinct or district upon the ground that he is not the person entitled to vote as claimed or has voted before at the same election; or

(b) On any ground set forth in a challenge filed with the county clerk pursuant to the provisions of NRS 293.547.

2. If a person is challenged, an election board officer shall tender the challenged person the following oath or affirmation:

(a) If the challenge is on the ground that he does not belong to the political party designated upon the register, “I swear or affirm under penalty of perjury that I belong to the political party designated upon the register”;

(b) If the challenge is on the ground that the register does not show that he designated the political party to which he claims to belong, “I swear or affirm under penalty of perjury that I designated on the application to register to vote the political party to which I claim to belong”;

(c) If the challenge is on the ground that he does not reside at the residence for which the address is listed in the election board register, “I swear or affirm under penalty of perjury that I reside at the residence for which the address is listed in the election board register”;

(d) If the challenge is on the ground that he previously voted a ballot for the election, “I swear or affirm under penalty of perjury that I have not voted for any of the candidates or questions included on this ballot for this election”; or

(e) If the challenge is on the ground that he is not the person he claims to be, “I swear or affirm under penalty of perjury that I am the person whose name is in this election board register.”

➤ The oath or affirmation must be set forth on a form prepared by the Secretary of State and signed by the challenged person under penalty of perjury.

3. Except as otherwise provided in subsection 4, if the challenged person refuses to execute the oath or affirmation so tendered, he must not be issued a ballot, and the officer in charge of the election board register shall write the words “Challenged .....” opposite his name in the election board register.

4. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (a) or (b) of subsection 2, the election board officers shall issue him a nonpartisan ballot.

5. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (c) of subsection 2, the election board officers shall inform him that he is entitled to vote only in the manner prescribed in NRS 293.304.

6. If the challenged person executes the oath or affirmation and the challenge is not based on the ground set forth in paragraph (e) of subsection 2, the election board officers shall issue him a partisan ballot.

7. If the challenge is based on the ground set forth in paragraph (c) of subsection 2, and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot until he furnishes satisfactory identification which contains proof of the address at which he actually resides. ***For the purposes of this subsection, a voter registration card issued pursuant to NRS 293.517 does not provide proof of the address at which a person resides.***

8. If the challenge is based on the ground set forth in paragraph (e) of subsection 2 and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot unless he:

(a) Furnishes official identification which contains a photograph of himself, such as his driver's license or other official document; or

(b) Brings before the election board officers a person who is at least 18 years of age who:

(1) Furnishes official identification which contains a photograph of himself, such as his driver's license or other official document; and

(2) Executes an oath or affirmation under penalty of perjury that the challenged person is who he swears he is.

9. The election board officers shall:

(a) Record on the challenge list:

(1) The name of the challenged person;

(2) The name of the registered voter who initiated the challenge; and

(3) The result of the challenge; and

(b) If possible, orally notify the registered voter who initiated the challenge of the result of the challenge.

Sec. 7. NRS 293.304 is hereby amended to read as follows:

293.304 1. If a person is successfully challenged on the ground set forth in paragraph (c) of subsection 2 of NRS 293.303 or if a person refuses to provide an affirmation pursuant to NRS 293.525, the election board shall instruct the voter that he may vote only at the special polling place in the manner set forth in this section.

2. The county clerk of each county shall maintain a special polling place in his office and at such other locations as he deems necessary during each election. The ballots voted at the special polling place must be kept separate from the ballots of voters who have not been so challenged or who have provided an affirmation pursuant to NRS 293.525 in:

(a) A special ballot box if the ballots are paper ballots ; ~~for ballots which are voted by punching a card;~~ or

(b) A special sealed container if the ballots are ballots which are voted on a mechanical recording device which directly records the votes electronically.

3. A person who votes at a special polling place may place his vote only for the following offices and questions:

- (a) President and Vice President of the United States;
- (b) United States Senator;
- (c) All state officers for whom all voters in the State may vote;
- (d) All officers for whom all voters in the county may vote; and
- (e) Questions which have been submitted to all voters of the county or State.

4. The ballots voted at the special polling place must be counted when other ballots are counted and:

(a) If the ballots are paper ballots , ~~for ballots which are voted by punching a card,~~ maintained in a separate ballot box; or

(b) If the ballots are ballots which are voted on a mechanical recording device which directly records the votes electronically, maintained in a separate sealed container,

→ until any contest of election is resolved or the date for filing a contest of election has passed, whichever is later.

**Sec. 7.5. NRS 293.3157 is hereby amended to read as follows:**

293.3157 1. Any registered voter of this State who resides outside the continental United States may use a facsimile machine to request an absent ballot. *The registered voter shall state on the request whether he requests the county clerk to send the absent ballot by mail or facsimile machine and whether he will return the absent ballot to the county clerk by mail or facsimile machine.*

2. *If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by mail, he shall include with his completed absent ballot the identification envelope provided by the county clerk. The identification envelope must be in the form prescribed by the Secretary of State and include, without limitation:*

*(a) A declaration, under penalty of perjury, stating that the registered voter resides within the precinct in which he is voting and is the person whose name appears on the envelope;*

*(b) The signature of the registered voter;*

*(c) The address that the registered voter provided on his application for voter registration; and*

*(d) A statement that the voter has not applied and will not apply to any other county clerk for an absent ballot.*

3. *If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by facsimile machine, he shall include with his completed absent ballot the following:*

**OATH OF VOTER**

I, \_\_\_\_\_, acknowledge that by returning my voted ballot by facsimile transmission I have waived my right to have my ballot kept secret. Nevertheless, I understand that, as with any absent voter, my signature, whether on this oath of voter form or my identification envelope, will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.

My residential address is

\_\_\_\_\_.  
(Street Address) (City) (ZIP Code)

My current mailing address is

\_\_\_\_\_.  
My e-mail address is

My facsimile transmission number is

I am a resident of \_\_\_\_\_ County, State of Nevada, and I have not applied, nor do I intend to apply, for an absentee ballot from any other jurisdiction for the same election.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(Signed)

\_\_\_\_\_  
voter (power of attorney cannot be accepted)

**YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT, ALL OF WHICH ARE RETURNED BY FACSIMILE TRANSMISSION.**

4. The county clerk, if so requested pursuant to subsection 1, shall use a facsimile machine to send an absent ballot and the oath, as required pursuant to subsection 3, to the registered voter.

~~3. The registered voter shall mail his absent ballot to the county clerk.~~

4+ 5. Each county clerk shall ensure the secrecy of absentee ballots that are submitted by facsimile machine.

6. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 8. NRS 293.323 is hereby amended to read as follows:

293.323 1. Except as otherwise provided in subsection 2, if the request for an absent ballot is made by mail or facsimile machine, the county clerk shall, as soon as the official absent ballot for the precinct or district in which the applicant resides has been printed, send to the voter by first-class mail, unless otherwise requested pursuant to NRS 293.3157, if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base, or by air mail, unless otherwise requested pursuant to NRS 293.3157, if the absent voter is in a foreign country but not on a military base:

(a) ~~{Except as otherwise provided in paragraph (b):~~

~~(+)~~ An absent ballot;

~~{{(2)}} (b)~~ A return envelope;  
~~{{(3)}} (c)~~ Supplies for marking the ballot;  
~~{{(4)}} (d)~~ An envelope or similar device into which the ballot is inserted to ensure its secrecy; ~~and~~

~~{{(5)}} Instructions.~~

~~(b) In those counties using a mechanical voting system whereby a vote is cast by punching a card:~~

~~(1) A card attached to a sheet of foam plastic or similar backing material;~~

~~(2) A return envelope;~~

~~(3) A punching instrument;~~

~~(4) A sample ballot;~~

~~(5) An envelope or similar device into which the card is inserted to ensure its secrecy; and~~

~~{{(6)}} (e) An identification envelope, if applicable pursuant to NRS 293.3157; and~~

~~(f) Instructions.~~

2. If the county clerk fails to send an absent ballot pursuant to subsection 1 to a voter who resides within the continental United States, the county clerk may use a facsimile machine to send an absent ballot and instructions to the voter. The voter ~~shall~~ may mail his absent ballot to the county clerk ~~or~~ submit his absent ballot by facsimile machine.

3. The return envelope sent pursuant to subsection 1 must include postage prepaid by first-class mail if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base.

4. Nothing may be enclosed or sent with an absent ballot except as required by subsection 1 or 2 ~~or~~ and NRS 293.3157.

5. Before depositing a ballot in the mails or sending a ballot by facsimile machine, the county clerk shall record the date the ballot is issued, the name of the registered voter to whom it is issued, his precinct or district, his political affiliation, if any, the number of the ballot and any remarks he finds appropriate.

6. The Secretary of State shall adopt regulations to carry out the provisions of subsection 2.

**Sec. 8.5. NRS 293.325 is hereby amended to read as follows:**

293.325 1. Except as otherwise provided in subsections 2 and 3, when an absent ballot is returned by a registered voter to the county clerk through the mails or facsimile machine and record thereof is made in the absent ballot record book, the county clerk shall neatly stack, unopened, the absent ballot with any other absent ballot received that day in a container and deliver, or cause to be delivered, that container to the precinct or district election board.

2. If the county clerk has appointed an absent ballot central counting board, the county clerk shall, upon receipt of each absent voter's ballot, make a record of the return and check the signature on the return envelope or

facsimile against the original signature of the voter on the county clerk's register. If the county clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box. At the end of each day before election day, the county clerk may remove the ballots from each ballot box and neatly stack the ballots in a container. Except as otherwise provided in subsection 3, on election day the county clerk shall deliver the ballot box and, if applicable, each container to the absent ballot counting board to be counted.

3. If the county uses a mechanical voting system, the county clerk shall, upon receipt of each absent voter's ballot, make a record of the return and check the signature on the return envelope or facsimile against the original signature of the voter on the county clerk's register. If the county clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box or place the ballot, unopened, in a container that must be securely locked or under the control of the county clerk at all times. At the end of each day before election day, the county clerk may remove the ballots from each ballot box, neatly stack the ballots in a container and seal the container with a numbered seal. Except as otherwise provided in this subsection, on election day the county clerk shall deliver the ballot box and each container, if applicable, to the central counting place. If the county uses a mechanical voting system and the county clerk has appointed an absent ballot central counting board, the county clerk may, not earlier than 4 working days before the election, deliver the ballots to the absent ballot central counting board to be processed and prepared for tabulation pursuant to the procedures established by the Secretary of State.

Sec. 9. NRS 293.330 is hereby amended to read as follows:

293.330 1. Except as otherwise provided in NRS 293.3157 and subsection 2 of NRS 293.323 and any regulations adopted pursuant thereto, when an absent voter receives his ballot, he must mark and fold it ~~[, if it is a paper ballot, or punch it, if the ballot is voted by punching a card,]~~ in accordance with the instructions, deposit it in the return envelope, seal the envelope, affix his signature on the back of the envelope in the space provided therefor and mail the return envelope.

2. Except as otherwise provided in subsection 3, if an absent voter who has requested a ballot by mail applies to vote the ballot in person at:

(a) The office of the county clerk, he must mark ~~for punch~~ the ballot, seal it in the return envelope and affix his signature in the same manner as provided in subsection 1, and deliver the envelope to the clerk.

(b) A polling place, including, without limitation, a polling place for early voting, he must surrender the absent ballot and provide satisfactory identification before being issued a ballot to vote at the polling place. A person who receives a surrendered absent ballot shall mark it "Cancelled."

3. If an absent voter who has requested a ballot by mail applies to vote in person at the office of the county clerk or a polling place, including, without limitation, a polling place for early voting, and the voter does not have the

absent ballot to deliver or surrender, the voter must be issued a ballot to vote if the voter:

- (a) Provides satisfactory identification;
- (b) Is a registered voter who is otherwise entitled to vote; and
- (c) Signs an affirmation under penalty of perjury on a form prepared by the Secretary of State declaring that the voter has not voted during the election.

4. Except as otherwise provided in NRS 293.316, it is unlawful for any person to return an absent ballot other than the voter who requested the absent ballot or, at the request of the voter, a member of his family. A person who returns an absent ballot and who is a member of the family of the voter who requested the absent ballot shall, under penalty of perjury, indicate on a form prescribed by the county clerk that he is a member of the family of the voter who requested the absent ballot and that the voter requested that he return the absent ballot. A person who violates the provisions of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

**Sec. 9.5. NRS 293.333 is hereby amended to read as follows:**

293.333 On the day of an election, the precinct or district election boards receiving the absent voters' ballots from the county clerk shall, in the presence of a majority of the election board officers, remove the ballots from the ballot box and the containers in which the ballots were transported pursuant to NRS 293.325 and deposit the ballots in the regular ballot box in the following manner:

1. The name of the voter, as shown on the return envelope ~~or~~ or facsimile, must be called and checked as if the voter were voting in person;
2. The signature on the back of the return envelope or on the facsimile must be compared with that on the original application to register to vote;
3. If the board determines that the absent voter is entitled to cast his ballot, the envelope must be opened, the numbers on the ballot and envelope compared, the number strip or stub detached from the ballot, and, if the numbers are the same, the ballot deposited in the regular ballot box; and
4. The election board officers shall mark in the pollbook opposite the name of the voter the word "Voted."

**Sec. 10. NRS 293.350 is hereby amended to read as follows:**

293.350 1. The county clerk shall:

- (a) Make certain of the names and addresses of all voters registered to vote in mailing precincts and absent ballot mailing precincts;
  - (b) Enroll the name and address of each voter found eligible to vote in those precincts in the mailing precinct record book;
  - (c) Mark the number of the ballot on the return envelope; and
  - (d) Mail the ballot to the registered voter.
2. ~~{Except as otherwise provided in subsection 3, the}~~ **The** ballot must be accompanied by:

- (a) Supplies for marking the ballot;
  - (b) A return envelope;
  - (c) An envelope or similar device into which the ballot is inserted to ensure its secrecy;
  - (d) A sample ballot; and
  - (e) Instructions regarding the manner of marking and returning the ballot.
- ~~{3.—In those counties using a mechanical voting system whereby a vote is cast by punching a card, the ballot must be accompanied by:~~

- ~~(a) A sheet of foam plastic or similar backing material attached to the card;~~
- ~~(b) A punching instrument;~~
- ~~(c) A return envelope;~~
- ~~(d) An envelope or similar device into which the card is inserted to ensure its secrecy;~~
- ~~(e) A sample ballot; and~~
- ~~(f) Instructions regarding the manner of punching and returning the card.]~~

Sec. 11. NRS 293.353 is hereby amended to read as follows:

293.353 Upon receipt of a mailing ballot from the county clerk, the registered voter must:

- 1. ~~{Except as otherwise provided in subsection 2:~~
- ~~(a)}~~ Immediately after opening the envelope, mark and fold the ballot;
- ~~{(b)}~~ 2. Place the ballot in the return envelope;
- ~~{(c)}~~ 3. Affix his signature on the back of the envelope; and
- ~~{(d)}~~ 4. Mail or deliver the envelope to the county clerk.

~~{2.—In those counties using a mechanical voting system whereby a vote is cast by punching a card:~~

- ~~(a) Immediately after opening the envelope, punch the card;~~
- ~~(b) Place the unfolded card in the return envelope;~~
- ~~(c) Affix his signature on the back of the envelope; and~~
- ~~(d) Mail or deliver the envelope to the county clerk.]~~

Sec. 12. NRS 293.356 is hereby amended to read as follows:

293.356 If a request is made to vote early by a registered voter in person, the election board shall issue a ballot for early voting to the voter. Such a ballot must be voted on the premises of a polling place for early voting established pursuant to NRS 293.3564 or 293.3572 and returned to the election board. If the ballot is a paper ballot ~~[, a ballot which is voted by punching a card]~~ or a ballot which is voted by any other system authorized by state or federal law, the election board shall follow the same procedure as in the case of absent ballots received by mail.

Sec. 13. NRS 293.3585 is hereby amended to read as follows:

293.3585 1. Upon the appearance of a person to cast a ballot for early voting, the deputy clerk for early voting shall:

- (a) Determine that the person is a registered voter in the county;
- (b) Instruct the voter to sign the roster for early voting; and



(c) Verify the signature of the voter against that contained on the original application to register to vote or facsimile thereof, the card issued to the voter at the time of registration or some other piece of official identification.

2. The county clerk shall prescribe a procedure, approved by the Secretary of State, to determine that the voter has not already voted pursuant to this section.

3. The roster for early voting must contain:

(a) The voter's name, the address where he is registered to vote, his voter identification number and a place for the voter's signature;

(b) The voter's precinct or voting district number; and

(c) The date of voting early in person.

4. When a voter is entitled to cast his ballot and has identified himself to the satisfaction of the deputy clerk for early voting, he is entitled to receive the appropriate ballot or ballots, but only for his own use at the polling place for early voting.

5. ~~If the ballot is voted by punching a card, the deputy clerk for early voting shall:~~

~~(a) Ensure that the voter's precinct or voting district and the form of ballot are indicated on the card;~~

~~(b) Direct the voter to the appropriate mechanical recording device for his form of ballot; and~~

~~(c) Allow the voter to place his voted ballot in the ballot box.~~

6. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the deputy clerk for early voting shall:

(a) Prepare the mechanical recording device for the voter;

(b) Ensure that the voter's precinct or voting district and the form of ballot are indicated on each part of the voting receipt;

(c) Retain one part of the voting receipt for the election board and return the other part of the voting receipt to the voter; and

(d) Allow the voter to cast his vote.

~~7.~~ 6. A voter applying to vote early by personal appearance may be challenged pursuant to NRS 293.303.

Sec. 14. NRS 293.359 is hereby amended to read as follows:

293.359 The ballot box for early voting in which voted ballots which are paper ballots ~~for ballots which are voted by punching a card~~ are deposited must have two numbered seals, and must be designed and constructed so that the box can be sealed to detect any unauthorized opening of the box and that the ballot slot can be sealed to prevent any unauthorized deposit in the box. The seals for the boxes must be serially numbered for each election.

Sec. 15. NRS 293.3602 is hereby amended to read as follows:

293.3602 If paper ballots ~~for ballots which are voted by punching a card~~ are used during the period for early voting by personal appearance:

1. Each voting day during that period, the ballots voted at the permanent or temporary polling place may be removed from the ballot box and neatly stacked in a container that is sealed with a numbered seal after the ballots are

stacked inside. The ballot box or sealed container must be delivered by an election board officer to the county clerk's office at the close of each voting day. The seal on the ballot box or container must indicate the number of voted ballots contained in that box or container for that day.

2. When the ballot box or container is delivered pursuant to subsection 1, the county clerk shall provide a new ballot box sealed in the manner prescribed in NRS 293.359.

3. At the close of each voting day before the fourth voting day before the last day to vote early, the county clerk may deliver all ballots voted to the ballot board for early voting. At the close of the fourth voting day before the last day to vote early and at the close of each of the 3 days thereafter, the county clerk shall deliver all ballots voted to the ballot board for early voting. At the close of the last voting day, the county clerk shall deliver to the ballot board for early voting:

(a) Each remaining ballot box and container that holds the ballots voted early by personal appearance;

(b) A voting roster of all persons who voted early by personal appearance; and

(c) Any list of registered voters used in conducting early voting.

4. Upon the receipt of ballots, the board shall:

(a) Remove all ballots from the ballot boxes and containers and sort the ballots by precinct or voting district;

(b) Count the number of ballots by precinct or voting district;

(c) Account for all ballots on an official statement of ballots; and

(d) Place all official ballots in the container provided to transport those items to a central counting place and seal the container with a numbered seal. The official statement of ballots must accompany the voted ballots to the central counting place.

5. The county clerk shall allow members of the general public to observe the handling of the ballots pursuant to subsections 1 and 4 if those members do not interfere with the handling of the ballots.

Sec. 16. NRS 293.363 is hereby amended to read as follows:

293.363 When the polls are closed, the counting board shall prepare to count the ballots voted. The counting procedure must be public and continue without adjournment until completed. If the ballots are paper ballots, ~~for ballots which are voted by punching a card,~~ the counting board shall prepare in the following manner:

1. The pollbooks must be compared and errors corrected until the books agree.

2. The container that holds the ballots, or the ballot box must be opened and the ballots contained therein counted by the counting board and opened far enough to ascertain whether each ballot is single. If two or more ballots are found folded together to present the appearance of a single ballot, they must be laid aside until the count of the ballots is completed. If, on comparison of the count with the pollbook, a majority of the inspectors are of

the opinion that the ballots folded together were voted by one person, the ballots must be rejected and placed in an envelope, upon which must be written the reason for their rejection. The envelope must be signed by the counting board officers and placed in the container or ballot box after the count is completed.

3. If the ballots in the container or box are found to exceed in number the number of names on the pollbooks, the ballots must be replaced in the container or box, and a counting board officer, with his back turned to the container or box, shall draw out a number of ballots equal to the excess. The excess ballots must be marked on the back thereof with the words "Excess ballots not counted." The ballots when so marked must be immediately sealed in an envelope and returned to the county clerk with the other ballots rejected for any cause.

4. When it has been ascertained that the pollbook and the number of ballots agree with the number of names of registered voters shown to have voted, the board shall proceed to count. If there is a discrepancy between the number of ballots and the number of voters, a record of the discrepancy must be made.

Sec. 17. NRS 293.367 is hereby amended to read as follows:

293.367 1. The basic factor to be considered by an election board when making a determination of whether a particular ballot must be rejected is whether any identifying mark appears on the ballot which, in the opinion of the election board, constitutes an identifying mark such that there is a reasonable belief entertained in good faith that the ballot has been tampered with and, as a result of the tampering, the outcome of the election would be affected.

2. The regulations for counting ballots must include provisions that:

(a) An error in marking one or more votes on a ballot does not invalidate any votes properly marked on that ballot.

(b) A soiled or defaced ballot may not be rejected if it appears that the soiling or defacing was inadvertent and was not done purposely to identify the ballot.

(c) Only devices provided for in this chapter or chapter 293B of NRS may be used in marking ballots.

(d) It is unlawful for any election board officer to place any mark upon any ballot other than a spoiled ballot.

(e) When an election board officer rejects a ballot for any alleged defect or illegality, the officer shall seal the ballot in an envelope and write upon the envelope a statement that it was rejected and the reason for rejecting it. Each election board officer shall sign the envelope.

~~[(f) In counties where mechanical voting systems are used whereby a vote is cast by punching a card, a superfluous punch into any card does not constitute grounds for rejection of the ballot unless the election board determines that the condition of the ballot justifies its exclusion pursuant to subsection 1.]~~

Sec. 18. NRS 293.3677 is hereby amended to read as follows:

293.3677 1. When counting a vote in an election, if more choices than permitted by the instructions for a ballot are marked for any office or question, the vote for that office or question may not be counted.

2. Except as otherwise provided in subsection 1, in an election in which a paper ballot is used whereby a vote is cast by placing a cross in the designated square on the paper ballot, a vote on the ballot must not be counted unless indicated by a cross in the designated square.

3. ~~{Except as otherwise provided in subsection 1, in an election in which a mechanical voting system is used whereby a vote is cast by punching a card:~~

~~(a) A chip on the card must be counted as a vote if:~~

~~(1) The chip has at least one corner that is detached from the card; or~~

~~(2) The fibers of paper on at least one edge of the chip are broken in a way that permits unimpeded light to be seen through the card.~~

~~(b) A writing or other mark on the card, including, without limitation, a cross, check, tear or scratch, may not be counted as a vote. The remaining votes on such a card must be counted unless the ballot is otherwise disqualified.~~

4. Except as otherwise provided in subsection 1, in an election in which a mechanical voting system is used whereby a vote is cast by darkening a designated space on the ballot:

(a) A vote must be counted if the designated space is darkened or there is a writing in the designated space, including, without limitation, a cross or check; and

(b) Except as otherwise provided in paragraph (a), a writing or other mark on the ballot, including, without limitation, a cross, check, tear or scratch may not be counted as a vote.

~~{5.}~~ 4. The Secretary of State:

(a) May adopt regulations establishing additional uniform, statewide standards, not inconsistent with this section, for counting a vote cast by a method of voting described in subsection 2 ~~{, 3 or 4.}~~ **or 3**; and

(b) Shall adopt regulations establishing uniform, statewide standards for counting a vote cast by each method of voting used in this State that is not described in subsection 2 ~~{, 3 or 4.}~~ **or 3**, including, without limitation, a vote cast on a mechanical recording device which directly records the votes electronically.

Sec. 19. NRS 293.373 is hereby amended to read as follows:

293.373 If paper ballots ~~{or ballots which are voted by punching a card}~~ are used:

1. After the tally lists have been completed, the voted ballots, rejected ballots, tally lists for regular ballots, tally list for rejected ballots, challenge list, stubs of used ballots, spoiled ballots and unused ballots must be sealed under cover by the counting board officers and addressed to the county clerk.

2. The other pollbooks, tally lists and election board register must be returned to the county clerk.

Sec. 20. NRS 293.385 is hereby amended to read as follows:

293.385 1. After 8 a.m. on election day, the counting board, if it is responsible for counting absent ballots, or the absent ballot central counting board shall withdraw from the appropriate ballot boxes or containers all the ballots received the previous day and ascertain that each box or container has the required number of ballots according to the county clerk's absent voters' ballot record.

2. If any absent ballots are received by the county clerk on election day pursuant to NRS 293.316, the county clerk shall deposit the absent ballots in the appropriate ballot boxes or containers.

3. After 8 a.m. on election day, the appropriate board shall count in public the votes cast on the absent ballots.

4. If paper ballots are used, the results of the absent ballot vote in each precinct must be certified and submitted to the county clerk who shall have the results added to the regular votes of the precinct. ~~If a mechanical voting system is used in which a voter casts his ballot by punching a card which is counted by a computer, the absent ballots may be counted with the regular votes of the precinct.~~ The returns of absent ballots must be reported separately from the regular votes of the precinct, unless reporting the returns separately would violate the secrecy of a voter's ballot. The county clerks shall develop a procedure to ensure that each ballot is kept secret.

5. Any person who disseminates to the public in any way information pertaining to the count of absent ballots before the polls close is guilty of a misdemeanor.

Sec. 21. NRS 293.517 is hereby amended to read as follows:

293.517 1. Any elector residing within the county may register:

(a) Except as otherwise provided in NRS 293.560 and 293C.527, by appearing before the county clerk, a field registrar or a voter registration agency, completing the application to register to vote, giving true and satisfactory answers to all questions relevant to his identity and right to vote, and providing proof of his residence and identity;

(b) By completing and mailing or personally delivering to the county clerk an application to register to vote pursuant to the provisions of NRS 293.5235;

(c) Pursuant to the provisions of NRS 293.501 or 293.524; or

(d) At his residence with the assistance of a field registrar pursuant to NRS 293.5237.

➡ The county clerk shall require a person to submit official identification as proof of residence and identity, such as a driver's license or other official document, before registering him. If the applicant registers to vote pursuant to this subsection and fails to provide proof of his residence and identity, the applicant must provide proof of his residence and identity before casting a ballot in person or by mail or after casting a provisional ballot pursuant to NRS 293.3081 or 293.3083. *For the purposes of this subsection, a voter*

***registration card issued pursuant to subsection 6 does not provide proof of the residence or identity of a person.***

2. The application to register to vote must be signed and verified under penalty of perjury by the elector registering.

3. Each elector who is or has been married must be registered under his own given or first name, and not under the given or first name or initials of his spouse.

4. An elector who is registered and changes his name must complete a new application to register to vote. He may obtain a new application:

- (a) At the office of the county clerk or field registrar;
- (b) By submitting an application to register to vote pursuant to the provisions of NRS 293.5235;
- (c) By submitting a written statement to the county clerk requesting the county clerk to mail an application to register to vote; or
- (d) At any voter registration agency.

➡ If the elector fails to register under his new name, he may be challenged pursuant to the provisions of NRS 293.303 or 293C.292 and may be required to furnish proof of identity and subsequent change of name.

5. An elector who registers to vote pursuant to paragraph (a) of subsection 1 shall be deemed to be registered upon the completion of his application to register to vote.

6. After the county clerk determines that the application to register to vote of a person is complete and that the person is eligible to vote, he shall issue a voter registration card to the voter which contains:

- (a) The name, address, political affiliation and precinct number of the voter;
- (b) The date of issuance; and
- (c) The signature of the county clerk.

Sec. 22. NRS 293.541 is hereby amended to read as follows:

293.541 1. The county clerk shall cancel the registration of a voter ~~if~~ if:

(a) After consultation with the district attorney, the district attorney determines that there is probable cause to believe that information in the registration concerning the identity or residence of the voter is fraudulent;

(b) The county clerk provides a notice as required pursuant to subsection 2 or executes an affidavit of cancellation pursuant to subsection 3; and

(c) The voter fails to present satisfactory proof of his identity and residence pursuant to subsection 2, 4 or 5.

2. Except as otherwise provided in subsection 3, the county clerk shall notify the voter by registered or certified mail, return receipt requested, of a determination made pursuant to subsection 1. The notice must set forth the grounds for cancellation. Unless the voter, within 15 days after the return receipt has been filed in the office of the county clerk, presents satisfactory proof of his identity and residence to the county clerk, the county clerk shall cancel his registration.

3. If insufficient time exists before a pending election to provide the notice required by subsection 2, the county clerk shall execute an affidavit of cancellation and file the affidavit of cancellation with the registrar of voters' register and:

(a) In counties where records of registration are not kept by computer, the county clerk shall attach a copy of the affidavit of cancellation in the election board register.

(b) In counties where records of registration are kept by computer, the county clerk shall have the affidavit of cancellation printed on the computer entry for the registration and add a copy of it to the election board register.

4. If a voter appears to vote at the election next following the date that an affidavit of cancellation was executed for the voter pursuant to this section, the voter must be allowed to vote only if he furnishes:

(a) Official identification which contains a photograph of himself, including, without limitation, a driver's license or other official document; and

(b) Satisfactory identification that contains proof of the address at which he actually resides and that address is consistent with the address listed on the election board register.

5. If a determination is made pursuant to subsection 1 concerning information in the registration to vote of a voter and an absent ballot or a ballot voted by a voter who resides in a mailing precinct is received from the voter, the ballot must be kept separate from other ballots and must not be counted unless the voter presents satisfactory proof to the county clerk of his identity and residence before such ballots are counted on election day.

**6. *For the purposes of this section, a voter registration card issued pursuant to NRS 293.517 does not provide proof of the:***

***(a) Address at which a person actually resides; or***

***(b) Residence or identity of a person.***

Sec. 23. NRS 293.565 is hereby amended to read as follows:

293.565 1. Except as otherwise provided in subsection 2, sample ballots must include:

(a) If applicable, the statement required by NRS 293.267;

(b) The fiscal note, as provided pursuant to NRS 218.443, 293.250, 293.481 or 293.482, for each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(c) An explanation, as provided pursuant to NRS 218.443, 293.250, 293.481, 293.482 or 295.121, of each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(d) Arguments for and against each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question, and rebuttals to each argument,

as provided pursuant to NRS 218.443, 293.250, 293.252, 293.481, 293.482 or 295.121; and

(e) The full text of each proposed constitutional amendment.

2. Sample ballots that are mailed to registered voters may be printed without the full text of each proposed constitutional amendment if:

(a) The cost of printing the sample ballots would be significantly reduced if the full text of each proposed constitutional amendment were not included;

(b) The county clerk ensures that a sample ballot that includes the full text of each proposed constitutional amendment is provided at no charge to each registered voter who requests such a sample ballot; and

(c) The sample ballots provided to each polling place include the full text of each proposed constitutional amendment.

3. Before the period for early voting ~~[, but not later than 10 days before]~~ **for** any election ~~[,]~~ **begins**, the county clerk shall cause to be mailed to each registered voter in the county a sample ballot for his precinct with a notice informing the voter of the location of his polling place. If the location of the polling place has changed since the last election:

(a) The county clerk shall mail a notice of the change to each registered voter in the county not sooner than 10 days before mailing the sample ballots; or

(b) The sample ballot must also include a notice in bold type immediately above the location which states:

**NOTICE: THE LOCATION OF YOUR POLLING PLACE  
HAS CHANGED SINCE THE LAST ELECTION**

4. Except as otherwise provided in subsection 5, a sample ballot required to be mailed pursuant to this section must:

(a) Be printed in at least 12-point type; and

(b) Include on the front page, in a separate box created by bold lines, a notice printed in at least 20-point bold type that states:

**NOTICE: TO RECEIVE A SAMPLE BALLOT IN  
LARGE TYPE, CALL (Insert appropriate telephone number)**

5. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

6. The sample ballot mailed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be printed in at least 14-point type, or larger when practicable.

7. If a person requests a sample ballot in large type, the county clerk shall ensure that all future sample ballots mailed to that person from the county are in large type.

8. The county clerk shall include in each sample ballot a statement indicating that the county clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his polling place and provide reasonable assistance to the voter in casting his



vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the county clerk has provided pursuant to subsection 4 of NRS 293.2955 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the county clerk shall include in the sample ballot a statement indicating:

- (a) The addresses of such centralized voting locations;
- (b) The types of specially equipped voting devices available at such centralized voting locations; and
- (c) That a voter who is elderly or disabled may cast his ballot at such a centralized voting location rather than at his regularly designated polling place.

9. The cost of mailing sample ballots for any election other than a primary or general election must be borne by the political subdivision holding the election.

Sec. 24. NRS 293B.032 is hereby amended to read as follows:

293B.032 "Mechanical recording device" means a device ~~for~~

~~1. Which~~ **which** mechanically or electronically compiles a total of the number of votes cast for each candidate and for or against each measure voted on. ~~for or~~

~~2. To which a list of offices and candidates and the statements of measures to be voted on may be affixed and into which a card may be inserted so that the votes cast for each candidate and for or against each measure may be indicated by punching the card with reference to the list.]~~

Sec. 25. NRS 293B.033 is hereby amended to read as follows:

293B.033 "Mechanical voting system" means a system of voting whereby a voter may cast his vote:

1. On a device which mechanically or electronically compiles a total of the number of votes cast for each candidate and for or against each measure voted on; or

2. By ~~[punching a card or]~~ marking a paper ballot which is subsequently counted on an electronic tabulator, counting device or computer.

Sec. 26. NRS 293B.103 is hereby amended to read as follows:

293B.103 ~~[1. If a mechanical voting system is used whereby votes are cast by punching a card:~~

~~(a) The cards to be used must have two detachable stubs.~~

~~(b) Each of the stubs attached to a particular card must bear the number of that card.~~

~~(c) One of the stubs must be detached and given to the voter when he returns his voted ballot, and the other stub must be retained by the election board.~~

~~2.]~~ If a mechanical voting system is used whereby votes are directly recorded electronically:

~~[(a)]~~ **I.** A voting receipt which has two parts must be used.

~~{{(b)}} 2.~~ Each part of the voting receipt must bear the same number for identification.

~~{{(c)}} 3.~~ One part of the voting receipt must be given to the voter when he votes and the other part of the voting receipt must be retained by the election board.

Sec. 27. NRS 293B.155 is hereby amended to read as follows:

293B.155 1. The tests prescribed by NRS 293B.150 and 293B.165 must be conducted by processing a preaudited group of logic and accuracy test ballots so ~~processed,~~ punched, voted or marked as to record a predetermined number of valid votes for each candidate and on each measure, and must include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the mechanical recording device or the automatic tabulating equipment and programs to reject those votes.

2. If any error is detected, the cause therefor must be ascertained and corrected and an errorless count must be made before the mechanical recording device or the automatic tabulating equipment and programs are approved.

3. When satisfied with the accuracy of the mechanical recording device or automatic tabulating equipment and computer program, the accuracy certification board and the county or city clerk shall date and sign all reports, and seal the program, if any, and the reports and all test material in an appropriate container. The container must be kept sealed by the clerk.

4. Except as otherwise provided in this subsection, the contents of such a sealed container are not subject to the inspection of anyone except in the case of a contested election, and then only by the judge, body or board before whom the election is being contested, or by the parties to the contest, jointly, pursuant to an order of that judge, body or board. For the period set forth in NRS 293.413 during which a candidate may file a statement of contest, the results of the test must be made available in the clerk's office for public inspection.

Sec. 28. NRS 293B.305 is hereby amended to read as follows:

293B.305 Unless a major political party allows a nonpartisan voter to vote for its candidates:

1. In a primary election, a member of the election board for a precinct shall issue each nonpartisan voter a ballot with a distinctive code and printed designation identifying it as a nonpartisan ballot.

2. If a mechanical voting system is used in a primary election whereby votes are directly recorded electronically, a member of the election board shall, in addition to the ballot described in subsection 1, issue the nonpartisan voter a voting receipt with a printed designation identifying it as a nonpartisan ballot.

3. The member of the election board shall:

(a) Direct the nonpartisan voter to a mechanical recording device containing a list of offices and candidates setting forth only the nonpartisan ballot; *or*

(b) Direct the nonpartisan voter to a mechanical recording device containing a list of offices and candidates arranged for a partisan ballot, instruct the voter to vote only the nonpartisan section of the list and advise the voter that any votes he may cast in the partisan section will not be counted. ~~{; or~~

~~(c) Issue a nonpartisan ballot attached to a sheet of foam plastic or similar backing material, a punching instrument, a sample nonpartisan ballot and an instruction sheet to the nonpartisan voter and instruct him to punch his ballot by reference to the sample ballot.}~~

Sec. 29. NRS 293B.330 is hereby amended to read as follows:

293B.330 1. Upon closing of the polls, the election board shall:

(a) Secure all mechanical recording devices against further voting.

~~(b) If a mechanical voting system is used whereby votes are cast by punching a card:~~

~~(1) Count the number of ballots in the ballot boxes.~~

~~(2) Account for all ballots on the statement of ballots.~~

~~(3) Place all official ballots, the ballot statement and any other records, reports and materials as directed by the county clerk into the container provided by him to transport those items to a central counting place and seal the container.~~

~~(c)}~~ If a mechanical voting system is used whereby votes are directly recorded electronically:

(1) Ensure that each mechanical recording device:

(I) Provides a record printed on paper of the total number of votes recorded on the device for each candidate and for or against each measure; and

(II) Transfers the ballots voted on that device to the storage device required pursuant to NRS 293B.084.

(2) Count the number of ballots voted at the polling place.

(3) Account for all ballots on the statement of ballots.

(4) Place all records printed on paper provided by the mechanical recording devices, all storage devices which store the ballots voted on the mechanical recording devices, and any other records, reports and materials as directed by the county clerk into the container provided by him to transport those items to a central counting place and seal the container.

~~{(d)}~~ (c) Record the number of voters on a form provided by the county clerk.

2. If a difference exists between the number of voters and the number of ballots voted, the election board shall report the difference and any known reasons for the difference, in writing, to the county clerk.

3. After closing the polls, the election board shall:

(a) Compare the quantity of the supplies furnished by the county clerk with the inventory of those supplies; and

(b) Note any shortages.

4. The county clerk shall allow members of the general public to observe the handling of the ballots pursuant to subsection 1 if those members do not interfere with the handling of the ballots.

Sec. 30. NRS 293B.365 is hereby amended to read as follows:

293B.365 The central ballot inspection board shall:

1. Receive the ballots in sealed containers.

2. Inspect the containers, record the number indicated on each container and its seal pursuant to NRS 293.462 and remove the ballots or storage devices which store the ballots voted on mechanical recording devices which directly record votes electronically.

3. Register the numbers of ballots by precinct.

4. Deliver any damaged ballots to the ballot duplicating board . ~~{, if the ballots were voted by punching a card.}~~

5. Receive duplicates of damaged ballots from the ballot duplicating board and place the duplicates with the voted ballots of the appropriate precinct . ~~{, if the ballots were voted by punching a card.}~~

6. Place each damaged original ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct . ~~{, if the ballot was voted by punching a card.}~~

7. Reject any ballot that has been marked in a way that identifies the voter.

8. Place each rejected ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct and the reason for the board's rejection of the ballot . ~~{, if the ballot was voted by punching a card.}~~

Sec. 31. NRS 293B.375 is hereby amended to read as follows:

293B.375 ~~{If ballots which are voted by punching a card are used, the}~~  
**The** ballot duplicating board shall:

1. Receive damaged ballots, including ballots which have been torn, bent or mutilated.

2. ~~{Receive cards with incompletely punched chips.}~~

~~3.}~~ Prepare on a distinctly colored, serially numbered ballot marked "duplicate" an exact copy of each damaged ballot.

~~{4. In the case of a card with an incompletely punched chip:~~

~~(a) Remove the incompletely punched chip if:~~

~~(1) The chip has at least one corner that is detached from the card; or~~

~~(2) The fibers of paper on at least one edge of the chip are broken in a way that permits unimpeded light to be seen through the card; or~~

~~(b) Duplicate the card without punching the location of the incompletely punched chip if:~~

~~(1) The chip does not have at least one corner that is detached from the card; and~~

~~(2) The fibers of paper on no edge of the chip are broken in a way that permits unimpeded light to be seen through the card.~~

5-} 3. Record the serial number of the duplicate ballot on the damaged original ballot and return the damaged and duplicate ballots to the appropriate ballot inspection board.

~~6-} 4.~~ 4. Hold aside the duplicated ballots for counting after all other ballots are counted if this procedure is directed by the county clerk.

Sec. 32. NRS 293C.185 is hereby amended to read as follows:

293C.185 1. Except as otherwise provided in NRS 293C.115 and 293C.190, a name may not be printed on a ballot to be used at a primary city election, unless the person named has filed a declaration of candidacy or an acceptance of candidacy and has paid the fee established by the governing body of the city not earlier than 70 days before the primary city election and not later than 5 p.m. on the 60th day before the primary city election.

2. A declaration of candidacy required to be filed by this section must be in substantially the following form:

DECLARATION OF CANDIDACY OF .... FOR THE

OFFICE OF .....

State of Nevada

City of

For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, ....., the undersigned do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ....., in the City or Town of ....., County of ....., State of Nevada; that my actual, as opposed to constructive, residence in the city, township or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a candidate at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

(Designation of name)

(Signature of candidate for office)

Subscribed and sworn to before me  
this ... day of the month of ... of the year ...

Notary Public or other person  
authorized to administer an oath

3. The address of a candidate that must be included in the declaration or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where he actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:

(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his residence; or

(b) The candidate does not present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including ~~[-without limitation,]~~ a check ~~[-]~~ which indicates the candidate's name and residential address ~~[-]~~, **but not including a voter registration card issued pursuant to NRS 293.517.**

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number or driver's license or identification card number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the city clerk as his agent for service of process for the purposes of a proceeding pursuant to NRS 293C.186. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the city clerk duplicate copies of the process. The city clerk shall immediately send, by registered or certified mail, one of the copies to the candidate at his specified address, unless the candidate has designated in writing to the city clerk a different address for that purpose, in which case the city clerk shall mail the copy to the last address so designated.

6. If the city clerk receives credible evidence indicating that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the city clerk:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether he has had his civil rights restored by a court of competent jurisdiction; and

(b) Shall transmit the credible evidence and the findings from such investigation to the city attorney.

7. The receipt of information by the city attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293C.186. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the city clerk must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

Sec. 33. NRS 293C.256 is hereby amended to read as follows:

293C.256 An absent ballot for a city election or a ballot for a city election voted by a voter who resides in a mailing precinct must be voted on a paper ballot. ~~for a ballot which is voted by punching a card.~~

Sec. 34. NRS 293C.292 is hereby amended to read as follows:

293C.292 1. A person applying to vote may be challenged:

(a) Orally by any registered voter of the precinct or district upon the ground that he is not the person entitled to vote as claimed or has voted before at the same election; or

(b) On any ground set forth in a challenge filed with the county clerk pursuant to the provisions of NRS 293.547.

2. If a person is challenged, an election board officer shall tender the challenged person the following oath or affirmation:

(a) If the challenge is on the ground that he does not reside at the residence for which the address is listed in the election board register, "I swear or affirm under penalty of perjury that I reside at the residence for which the address is listed in the election board register";

(b) If the challenge is on the ground that he previously voted a ballot for the election, "I swear or affirm under penalty of perjury that I have not voted for any of the candidates or questions included on this ballot for this election"; or

(c) If the challenge is on the ground that he is not the person he claims to be, "I swear or affirm under penalty of perjury that I am the person whose name is in this election board register."

➤ The oath or affirmation must be set forth on a form prepared by the Secretary of State and signed by the challenged person under penalty of perjury.

3. If the challenged person refuses to execute the oath or affirmation so tendered, he must not be issued a ballot, and the officer in charge of the election board register shall write the words "Challenged ....." opposite his name in the election board register.

4. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (a) of subsection 2, the election board officers shall inform

him that he is entitled to vote only in the manner prescribed in NRS 293C.295.

5. If the challenged person executes the oath or affirmation and the challenge is not based on the ground set forth in paragraph (c) of subsection 2, the election board officers shall issue him a ballot.

6. If the challenge is based on the ground set forth in paragraph (a) of subsection 2, and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot until he furnishes satisfactory identification that contains proof of the address at which he actually resides. ***For the purposes of this subsection, a voter registration card issued pursuant to NRS 293.517 does not provide proof of the address at which a person resides.***

7. If the challenge is based on the ground set forth in paragraph (c) of subsection 2 and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot unless he:

(a) Furnishes official identification which contains a photograph of himself, such as his driver's license or other official document; or

(b) Brings before the election board officers a person who is at least 18 years of age who:

(1) Furnishes official identification which contains a photograph of himself, such as his driver's license or other official document; and

(2) Executes an oath or affirmation under penalty of perjury that the challenged person is who he swears he is.

8. The election board officers shall:

(a) Record on the challenge list:

(1) The name of the challenged person;

(2) The name of the registered voter who initiated the challenge; and

(3) The result of the challenge; and

(b) If possible, orally notify the registered voter who initiated the challenge of the result of the challenge.

Sec. 35. NRS 293C.295 is hereby amended to read as follows:

293C.295 1. If a person is successfully challenged on the ground set forth in paragraph (a) of subsection 2 of NRS 293C.292 or if a person refuses to provide an affirmation pursuant to NRS 293C.525, the election board shall instruct the voter that he may vote only at the special polling place in the manner set forth in this section.

2. The city clerk shall maintain at least one special polling place at such locations as he deems necessary during each election. The ballots voted at the special polling place must be kept separate from the ballots of voters who have not been so challenged or who have provided an affirmation pursuant to NRS 293C.525 in:

(a) A special ballot box if the ballots are paper ballots ; ~~for ballots that are voted by punching a card;~~ or

(b) A special sealed container if the ballots are ballots that are voted on a mechanical recording device which directly records the votes electronically.



3. A person who votes at a special polling place may place his vote only for the following offices and questions:

- (a) All officers for whom all voters in the city may vote; and
- (b) Questions that have been submitted to all voters of the city.

4. The ballots voted at the special polling place must be counted when other ballots are counted and:

(a) If the ballots are paper ballots, ~~for ballots that are voted by punching a card,~~ maintained in a separate ballot box; or

(b) If the ballots are ballots that are voted on a mechanical recording device that directly records the votes electronically, maintained in a separate sealed container,

↪ until any contest of election is resolved or the date for filing a contest of election has passed, whichever is later.

**Sec. 35.5. NRS 293C.315 is hereby amended to read as follows:**

293C.315 1. Any registered voter of this State who resides outside the continental United States may use a facsimile machine to request an absent ballot. *The registered voter shall state on the request whether he requests the city clerk to send the absent ballot by mail or facsimile machine and whether he will return the absent ballot to the city clerk by mail or facsimile machine.*

2. *If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by mail, he shall include with his completed absent ballot the identification envelope provided by the city clerk. The identification envelope must be in the form prescribed by the Secretary of State and include, without limitation:*

*(a) A declaration, under penalty of perjury, stating that the registered voter resides within the precinct in which he is voting and is the person whose name appears on the envelope;*

*(b) The signature of the registered voter;*

*(c) The address that the registered voter provided on his application for voter registration; and*

*(d) A statement that the voter has not applied and will not apply to any other city clerk for an absent ballot.*

3. *If the registered voter indicates pursuant to subsection 1 that he will submit the absent ballot by facsimile machine, he shall include with his completed absent ballot the following:*

**OATH OF VOTER**

*I, \_\_\_\_\_, acknowledge that by returning my voted ballot by facsimile transmission I have waived my right to have my ballot kept secret. Nevertheless, I understand that, as with any absent voter, my signature, whether on this oath of voter form or my identification envelope, will be permanently separated from my voted ballot to maintain its secrecy at the outset of the tabulation process and thereafter.*

*My residential address is*

\_\_\_\_\_.

(Street Address) (City) (ZIP Code)

My current mailing address is

My e-mail address is

My facsimile transmission number is

I am a resident of County, State of Nevada, and I have not applied, nor do I intend to apply, for an absentee ballot from any other jurisdiction for the same election.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this day of , 20 .

(Signed)

voter (power of attorney cannot be accepted)

**YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT, ALL OF WHICH ARE RETURNED BY FACSIMILE TRANSMISSION.**

4. The city clerk, if so requested pursuant to subsection 1, shall use a facsimile machine to send an absent ballot and the oath, as required pursuant to subsection 3, to the registered voter.

~~3. The registered voter shall mail his absent ballot to the city clerk.~~

~~4.~~ 5. Each city clerk shall ensure the secrecy of absentee ballots that are submitted by facsimile machine.

6. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 36. NRS 293C.322 is hereby amended to read as follows:

293C.322 1. Except as otherwise provided in subsection 2, if the request for an absent ballot is made by mail or facsimile machine, the city clerk shall, as soon as the official absent ballot for the precinct or district in which the applicant resides has been printed, send to the voter by first-class mail, unless otherwise requested pursuant to NRS 293C.315, if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base, or by air mail, unless otherwise requested pursuant to NRS 293C.315, if the absent voter is in a foreign country but not on a military base:

(a) ~~Except as otherwise provided in paragraph (b):~~

~~(1)~~ An absent ballot;

~~(2)~~ (b) A return envelope;

~~(3)~~ (c) Supplies for marking the ballot;

~~(4)~~ (d) An envelope or similar device into which the ballot is inserted

to ensure its secrecy; ~~and~~

~~(5) Instructions.~~

~~(b) In those cities using a mechanical voting system whereby a vote is cast by punching a card:~~

~~(1) A card attached to a sheet of foam plastic or similar backing material;~~

~~(2) A return envelope;~~

~~(3) A punching instrument;~~

~~(4) A sample ballot;~~

~~(5) An envelope or similar device into which the card is inserted to ensure its secrecy; and~~

~~(6)}~~ *(e) An identification envelope, if applicable pursuant to NRS 293C.315; and*

*(f) Instructions.*

2. If the city clerk fails to send an absent ballot pursuant to subsection 1 to a voter who resides within the continental United States, the city clerk may use a facsimile machine to send an absent ballot and instructions to the voter. The voter shall mail his absent ballot to the city clerk.

3. The return envelope sent pursuant to subsection 1 must include postage prepaid by first-class mail if the absent voter is within the boundaries of the United States, its territories or possessions or on a military base.

4. Nothing may be enclosed or sent with an absent ballot except as required by subsection 1 or 2.

5. Before depositing a ballot with the United States Postal Service or sending a ballot by facsimile machine, the city clerk shall record the date the ballot is issued, the name of the registered voter to whom it is issued, his precinct or district, the number of the ballot and any remarks he finds appropriate.

6. The Secretary of State shall adopt regulations to carry out the provisions of subsection 2.

***Sec. 36.5. NRS 293C.325 is hereby amended to read as follows:***

293C.325 1. Except as otherwise provided in subsections 2 and 3, when an absent ballot is returned by a registered voter to the city clerk through the mails ~~or~~ *or facsimile* and record thereof is made in the absent ballot record book, the city clerk shall neatly stack, unopened, the absent ballot with any other absent ballot received that day in a container and deliver, or cause to be delivered, that container to the precinct or district election board.

2. If the city clerk has appointed an absent ballot central counting board, the city clerk shall, upon receipt of each absent voter's ballot, make a record of the return and check the signature on the return envelope *or facsimile* against the original signature of the voter on the county clerk's register. If the city clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box. At the end of each day before election day, the city clerk may remove the ballots from each ballot box and neatly stack the ballots in a container. Except as otherwise provided in subsection 3, on election day the city clerk shall deliver the ballot box and, if applicable, each container to the absent ballot counting board to be counted.

3. If the city uses a mechanical voting system, the city clerk shall, upon receipt of each absent voter's ballot, make a record of the return and check the signature on the return envelope or facsimile against the original signature of the voter on the county clerk's register. If the city clerk determines that the absent voter is entitled to cast his ballot, he shall deposit the ballot in the proper ballot box or place the ballot, unopened, in a container that must be securely locked or under the control of the city clerk at all times. At the end of each day before election day, the city clerk may remove the ballots from each ballot box, neatly stack the ballots in a container and seal the container with a numbered seal. Except as otherwise provided in this subsection, on election day the city clerk shall deliver the ballot box and each container, if applicable, to the central counting place. If the city uses a mechanical voting system and the city clerk has appointed an absent ballot central counting board, the city clerk may, not earlier than 4 working days before the election, deliver the ballots to the absent ballot central counting board to be processed and prepared for tabulation pursuant to the procedures established by the Secretary of State.

Sec. 37. NRS 293C.330 is hereby amended to read as follows:

293C.330 1. Except as otherwise provided in NRS 293C.315 and subsection 2 of NRS 293C.322 and any regulations adopted pursuant thereto, when an absent voter receives his ballot, he must mark and fold it ~~[, if it is a paper ballot, or punch it, if the ballot is voted by punching a card,]~~ in accordance with the instructions, deposit it in the return envelope, seal the envelope, affix his signature on the back of the envelope in the space provided therefor and mail the return envelope.

2. Except as otherwise provided in subsection 3, if an absent voter who has requested a ballot by mail applies to vote the ballot in person at:

(a) The office of the city clerk, he must mark ~~for punch~~ the ballot, seal it in the return envelope and affix his signature in the same manner as provided in subsection 1, and deliver the envelope to the city clerk.

(b) A polling place, including, without limitation, a polling place for early voting, he must surrender the absent ballot and provide satisfactory identification before being issued a ballot to vote at the polling place. A person who receives a surrendered absent ballot shall mark it "Cancelled."

3. If an absent voter who has requested a ballot by mail applies to vote in person at the office of the city clerk or a polling place, including, without limitation, a polling place for early voting, and the voter does not have the absent ballot to deliver or surrender, the voter must be issued a ballot to vote if the voter:

- (a) Provides satisfactory identification;
- (b) Is a registered voter who is otherwise entitled to vote; and
- (c) Signs an affirmation under penalty of perjury on a form prepared by the Secretary of State declaring that the voter has not voted during the election.

4. Except as otherwise provided in NRS 293C.317, it is unlawful for any person to return an absent ballot other than the voter who requested the absent ballot or, at the request of the voter, a member of his family. A person who returns an absent ballot and who is a member of the family of the voter who requested the absent ballot shall, under penalty of perjury, indicate on a form prescribed by the city clerk that he is a member of the family of the voter who requested the absent ballot and that the voter requested that he return the absent ballot. A person who violates the provisions of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

**Sec. 37.5. NRS 293C.332 is hereby amended to read as follows:**

293C.332 On the day of an election, the precinct or district election boards receiving the absent voters' ballots from the city clerk shall, in the presence of a majority of the election board officers, remove the ballots from the ballot box and the containers in which the ballots were transported pursuant to NRS 293C.325 and deposit the ballots in the regular ballot box in the following manner:

1. The name of the voter, as shown on the return envelope ~~or~~ or facsimile, must be called and checked as if the voter were voting in person;
2. The signature on the back of the return envelope or on the facsimile must be compared with that on the original application to register to vote;
3. If the board determines that the absent voter is entitled to cast his ballot, the envelope must be opened, the numbers on the ballot and envelope compared, the number strip or stub detached from the ballot and, if the numbers are the same, the ballot deposited in the regular ballot box; and
4. The election board officers shall mark in the pollbook opposite the name of the voter the word "Voted."

**Sec. 38. NRS 293C.347 is hereby amended to read as follows:**

293C.347 1. The city clerk shall:

- (a) Make certain of the names and addresses of all voters registered to vote in mailing precincts and absent ballot mailing precincts;
  - (b) Enroll the name and address of each voter found eligible to vote in those precincts in the mailing precinct record book;
  - (c) Mark the number of the ballot on the return envelope; and
  - (d) Mail the ballot to the registered voter.
2. ~~{Except as otherwise provided in subsection 3, the}~~ **The** ballot must be accompanied by:
- (a) Supplies for marking the ballot;
  - (b) A return envelope;
  - (c) An envelope or similar device into which the ballot is inserted to ensure its secrecy;
  - (d) A sample ballot; and
  - (e) Instructions regarding the manner of marking and returning the ballot.
- ~~{3. In those cities using a mechanical voting system whereby a vote is cast by punching a card, the ballot must be accompanied by:~~

~~(a) A sheet of foam plastic or similar backing material attached to the card;~~

~~(b) A punching instrument;~~

~~(c) A return envelope;~~

~~(d) An envelope or similar device into which the card is inserted to ensure its secrecy;~~

~~(e) A sample ballot; and~~

~~(f) Instructions concerning the manner of punching and returning the card.]~~

Sec. 39. NRS 293C.350 is hereby amended to read as follows:

293C.350 Upon receipt of a mailing ballot from the city clerk, the registered voter must:

1. ~~{Except as otherwise provided in subsection 2:~~

~~(a)} Immediately after opening the envelope, mark and fold the ballot;~~

~~{(b)} 2. Place the ballot in the return envelope;~~

~~{(c)} 3. Affix his signature on the back of the envelope; and~~

~~{(d)} 4. Mail or deliver the envelope to the city clerk.~~

~~{2. In those cities using a mechanical voting system whereby a vote is cast by punching a card:~~

~~(a) Immediately after opening the envelope, punch the card;~~

~~(b) Place the unfolded card in the return envelope;~~

~~(c) Affix his signature on the back of the envelope; and~~

~~(d) Mail or deliver the envelope to the city clerk.]~~

Sec. 40. NRS 293C.356 is hereby amended to read as follows:

293C.356 1. If a request is made to vote early by a registered voter in person, the city clerk shall issue a ballot for early voting to the voter. Such a ballot must be voted on the premises of the clerk's office and returned to the clerk. If the ballot is a paper ballot, ~~for a ballot which is voted by punching a card,]~~ the clerk shall follow the same procedure as in the case of absent ballots received by mail.

2. On the dates for early voting prescribed in NRS 293C.3568, each city clerk shall provide a voting booth, with suitable equipment for voting, on the premises of his office for use by registered voters who are issued ballots for early voting in accordance with this section.

Sec. 41. NRS 293C.3585 is hereby amended to read as follows:

293C.3585 1. Upon the appearance of a person to cast a ballot for early voting, the deputy clerk for early voting shall:

(a) Determine that the person is a registered voter in the county;

(b) Instruct the voter to sign the roster for early voting; and

(c) Verify the signature of the voter against that contained on the original application to register to vote or *a* facsimile thereof, the card issued to the voter at the time of registration or some other piece of official identification.

2. The city clerk shall prescribe a procedure, approved by the Secretary of State, to determine that the voter has not already voted pursuant to this section.

3. The roster for early voting must contain:

- (a) The voter's name, the address where he is registered to vote, his voter identification number and a place for the voter's signature;
- (b) The voter's precinct or voting district number; and
- (c) The date of voting early in person.

4. When a voter is entitled to cast his ballot and has identified himself to the satisfaction of the deputy clerk for early voting, he is entitled to receive the appropriate ballot or ballots, but only for his own use at the polling place for early voting.

5. ~~{If the ballot is voted by punching a card, the deputy clerk for early voting shall:~~

~~(a) Ensure that the voter's precinct or voting district and the form of ballot are indicated on the card;~~

~~(b) Direct the voter to the appropriate mechanical recording device for his form of ballot; and~~

~~(c) Allow the voter to place his voted ballot in the ballot box.~~

6. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the deputy clerk for early voting shall:

- (a) Prepare the mechanical recording device for the voter;
- (b) Ensure that the voter's precinct or voting district and the form of ballot are indicated on each part of the voting receipt;
- (c) Retain one part of the voting receipt for the election board and return the other part of the voting receipt to the voter; and
- (d) Allow the voter to cast his vote.

~~{7.}~~ 6. A voter applying to vote early by personal appearance may be challenged pursuant to NRS 293C.292.

Sec. 42. NRS 293C.359 is hereby amended to read as follows:

293C.359 The ballot box for early voting in which voted ballots which are paper ballots ~~{or ballots which are voted by punching a card}~~ are deposited must have two numbered seals, and must be designed and constructed so that the box can be sealed to detect any unauthorized opening of the box and that the ballot slot can be sealed to prevent any unauthorized deposit in the box. The seals for the boxes must be serially numbered for each election.

Sec. 43. NRS 293C.3602 is hereby amended to read as follows:

293C.3602 If paper ballots ~~{or ballots which are voted by punching a card}~~ are used during the period for early voting by personal appearance:

1. Each voting day during that period, the ballots voted at the permanent or temporary polling place may be removed from the ballot box and neatly stacked in a container that is sealed with a numbered seal after the ballots are stacked inside. The ballot box or sealed container must be delivered by an election board officer to the city clerk's office at the close of each voting day. The seal on the ballot box or container must indicate the number of voted ballots contained in that box or container for that day.

2. When the ballot box or container is delivered pursuant to subsection 1, the city clerk shall provide a new ballot box sealed in the manner prescribed in NRS 293C.359.

3. At the close of each voting day before the fourth voting day before the last day to vote early, the city clerk may deliver all ballots voted to the ballot board for early voting. At the close of the fourth voting day before the last day to vote early and at the close of each of the 3 days thereafter, the city clerk shall deliver all ballots voted to the ballot board for early voting. At the close of the last voting day, the city clerk shall deliver to the ballot board for early voting:

(a) Each remaining ballot box and container that holds the ballots voted early by personal appearance;

(b) A voting roster of all persons who voted early by personal appearance; and

(c) Any list of registered voters used in conducting early voting.

4. Upon the receipt of *the* ballots, the board shall:

(a) Remove all ballots from the ballot boxes and containers and sort the ballots by precinct or voting district;

(b) Count the number of ballots by precinct or voting district;

(c) Account for all ballots on an official statement of ballots; and

(d) Place all official ballots in the container provided to transport those items to a central counting place and seal the container with a numbered seal. The official statement of ballots must accompany the voted ballots to the central counting place.

5. The city clerk shall allow members of the general public to observe the handling of the ballots pursuant to subsections 1 and 4 if those members do not interfere with the handling of the ballots.

Sec. 44. NRS 293C.362 is hereby amended to read as follows:

293C.362 When the polls are closed, the counting board shall prepare to count the ballots voted. The counting procedure must be public and continue without adjournment until completed. If the ballots are paper ballots, ~~for ballots that are voted by punching a card,~~ the counting board shall prepare in the following manner:

1. The pollbooks must be compared and errors corrected until the books agree.

2. The container that holds the ballots ~~{ }~~ or the ballot box must be opened and the ballots contained therein counted by the counting board and opened far enough to determine whether each ballot is single. If two or more ballots are found folded together to present the appearance of a single ballot, they must be laid aside until the count of the ballots is completed. If, on comparison of the count with the pollbook, a majority of the inspectors are of the opinion that the ballots folded together were voted by one person, the ballots must be rejected and placed in an envelope, upon which must be written the reason for their rejection. The envelope must be signed by the



counting board officers and placed in the container or ballot box after the count is completed.

3. If the ballots in the container or box are found to exceed the number of names on the pollbooks, the ballots must be replaced in the container or box and a counting board officer shall, with his back turned to the container or box, draw out a number of ballots equal to the excess. The excess ballots must be marked on the back thereof with the words "Excess ballots not counted." The ballots when so marked must be immediately sealed in an envelope and returned to the city clerk with the other ballots rejected for any cause.

4. When it has been determined that the pollbook and the number of ballots agree with the number of names of registered voters shown to have voted, the board shall proceed to count. If there is a discrepancy between the number of ballots and the number of voters, a record of the discrepancy must be made.

Sec. 45. NRS 293C.367 is hereby amended to read as follows:

293C.367 1. The basic factor to be considered by an election board when making a determination of whether a particular ballot must be rejected is whether any identifying mark appears on the ballot which, in the opinion of the election board, constitutes an identifying mark such that there is a reasonable belief entertained in good faith that the ballot has been tampered with and, as a result of the tampering, the outcome of the election would be affected.

2. Regulations for counting ballots must include provisions that:

(a) An error in marking one or more votes on a ballot does not invalidate any votes properly marked on that ballot.

(b) A soiled or defaced ballot may not be rejected if it appears that the soiling or defacing was inadvertent and was not done purposely to identify the ballot.

(c) Only devices provided for in this chapter, chapter 293 or 293B of NRS may be used in marking ballots.

(d) It is unlawful for any election board officer to place any mark upon any ballot other than a spoiled ballot.

(e) When an election board officer rejects a ballot for any alleged defect or illegality, the officer shall seal the ballot in an envelope and write upon the envelope a statement that it was rejected and the reason for rejecting it. Each election board officer shall sign the envelope.

~~[(f) In cities where mechanical voting systems are used whereby a vote is cast by punching a card, a superfluous punch into any card does not constitute grounds for rejection of the ballot unless the election board determines that the condition of the ballot justifies its exclusion pursuant to subsection 1.]~~

Sec. 46. NRS 293C.369 is hereby amended to read as follows:

293C.369 1. When counting a vote in an election, if more choices than permitted by the instructions for a ballot are marked for any office or question, the vote for that office or question may not be counted.

2. Except as otherwise provided in subsection 1, in an election in which a paper ballot is used whereby a vote is cast by placing a cross in the designated square on the paper ballot, a cross in the designated square must be counted as a vote.

3. ~~{Except as otherwise provided in subsection 1, in an election in which a mechanical voting system is used whereby a vote is cast by punching a card:~~

~~(a) A chip on the card must be counted as a vote if:~~

~~(1) The chip has at least one corner that is detached from the card; or~~

~~(2) The fibers of paper on at least one edge of the chip are broken in a way that permits unimpeded light to be seen through the card.~~

~~(b) A writing or other mark on the card, including, without limitation, a cross, check, tear or scratch, may not be counted as a vote. The remaining votes on such a card must be counted unless the ballot is otherwise disqualified.~~

4. Except as otherwise provided in subsection 1, in an election in which a mechanical voting system is used whereby a vote is cast by darkening a designated space on the ballot:

(a) A vote must be counted if the designated space is darkened or there is a writing in the designated space, including, without limitation, a cross or check; and

(b) Except as otherwise provided in paragraph (a), a writing or other mark on the ballot, including, without limitation, a cross, check, tear or scratch may not be counted as a vote.

~~{5.}~~ 4. The Secretary of State:

(a) May adopt regulations establishing additional uniform, statewide standards, not inconsistent with this section, for counting a vote cast by a method of voting described in subsection 2 ~~{, 3 or 4.}~~ **or 3**; and

(b) Shall adopt regulations establishing uniform, statewide standards for counting a vote cast by each method of voting used in this State that is not described in subsection 2 ~~{, 3 or 4.}~~ **or 3**, including, without limitation, a vote cast on a mechanical recording device which directly records the votes electronically.

Sec. 47. NRS 293C.375 is hereby amended to read as follows:

293C.375 If paper ballots ~~{or ballots which are voted by punching a card}~~ are used:

1. After the tally lists have been completed, the voted ballots, rejected ballots, tally lists for regular ballots, tally list for rejected ballots, challenge list, stubs of used ballots, spoiled ballots and unused ballots must be sealed under cover by the counting board officers and addressed to the city clerk.

2. The other pollbooks, tally lists and *the* election board register must be returned to the city clerk.

Sec. 48. NRS 293C.385 is hereby amended to read as follows:

293C.385 1. After 8 a.m. on election day, the counting board, if it is responsible for counting absent ballots, or the absent ballot central counting board shall withdraw from the appropriate ballot boxes or containers all the ballots received the previous day and determine whether each box or container has the required number of ballots according to the city clerk's absent voters' ballot record.

2. If any absent ballots are received by the city clerk on election day pursuant to NRS 293C.317, the city clerk shall deposit the absent ballots in the appropriate ballot boxes or containers.

3. After 8 a.m. on election day, the appropriate board shall count in public the votes cast on the absent ballots.

4. If paper ballots are used, the results of the absent ballot vote in each precinct must be certified and submitted to the city clerk, who shall have the results added to the regular votes of the precinct. ~~If a mechanical voting system is used in which a voter casts his ballot by punching a card that is counted by a computer, the absent ballots may be counted with the regular votes of the precinct.~~ The returns of absent ballots must be reported separately from the regular votes of the precinct, unless reporting the returns separately would violate the secrecy of a voter's ballot. The city clerks shall develop a procedure to ensure that each ballot is kept secret.

5. Any person who disseminates to the public information relating to the count of absent ballots before the polls close is guilty of a misdemeanor.

Sec. 49. NRS 293C.530 is hereby amended to read as follows:

293C.530 1. Before the period for early voting ~~[-, but not later than 10 days before]~~ **for an** any election ~~[-] begins~~, the city clerk shall cause to be mailed to each registered voter in the city a sample ballot for his precinct, with a notice informing the voter of the location of his polling place. If the location of the polling place has changed since the last election:

(a) The city clerk shall mail a notice of the change to each registered voter in the city not sooner than 10 days before mailing the sample ballots; or

(b) The sample ballot must also include a notice in bold type immediately above the location which states:

**NOTICE: THE LOCATION OF YOUR POLLING PLACE  
HAS CHANGED SINCE THE LAST ELECTION**

2. Except as otherwise provided in subsection 3, a sample ballot required to be mailed pursuant to this section must:

(a) Be printed in at least 12-point type;

(b) Include the fiscal note and explanation, as required pursuant to NRS 293.481 or 293.482, of each citywide measure and advisory question, including arguments for and against it; and

(c) Include on the front page, in a separate box created by bold lines, a notice printed in at least 20-point bold type that states:

**NOTICE: TO RECEIVE A SAMPLE BALLOT IN**

**LARGE TYPE, CALL (Insert appropriate telephone number)**

3. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

4. The sample ballot mailed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be printed in at least 14-point type, or larger when practicable.

5. If a person requests a sample ballot in large type, the city clerk shall ensure that all future sample ballots mailed to that person from the city are in large type.

6. The city clerk shall include in each sample ballot a statement indicating that the city clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his polling place and provide reasonable assistance to the voter in casting his vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the city clerk has provided pursuant to subsection 4 of NRS 293C.281 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the city clerk shall include in the sample ballot a statement indicating:

- (a) The addresses of such centralized voting locations;
- (b) The types of specially equipped voting devices available at such centralized voting locations; and
- (c) That a voter who is elderly or disabled may cast his ballot at such a centralized voting location rather than at his regularly designated polling place.

7. The cost of mailing sample ballots for a city election must be borne by the city holding the election.

Sec. 50. NRS 293C.620 is hereby amended to read as follows:

293C.620 1. At each election a member of the election board for a precinct shall issue each voter a ballot.

2. If a mechanical voting system is used in a primary city election whereby votes are directly recorded electronically, a member of the election board shall, in addition to the ballot described in subsection 1, issue the voter a voting receipt.

3. The member of the election board shall ~~for~~

~~(a) Direct~~ **direct** the voter to a mechanical recording device containing a list of offices and candidates. ~~for~~

~~(b) Issue a ballot attached to a sheet of foam plastic or similar backing material, a punching instrument, a sample ballot and an instruction sheet to the voter and instruct him to punch his ballot by reference to the sample ballot.~~

Sec. 51. NRS 293C.630 is hereby amended to read as follows:

293C.630 1. Upon closing of the polls, the election board shall:

- (a) Secure all mechanical recording devices against further voting.

~~(b) If a mechanical voting system is used whereby votes are cast by punching a card:~~

- ~~(1) Count the number of ballots in the ballot boxes.~~
- ~~(2) Account for all ballots on the statement of ballots.~~
- ~~(3) Place all official ballots, the ballot statement and any other records, reports and materials as directed by the city clerk into the container provided by him to transport those items to a central counting place and seal the container.~~

~~(c)}~~ If a mechanical voting system is used whereby votes are directly recorded electronically:

- (1) Ensure that each mechanical recording device:

(I) Provides a record printed on paper of the total number of votes recorded on the device for each candidate and for or against each measure; and

(II) Transfers the ballots voted on that device to the storage device required pursuant to NRS 293B.084.

- (2) Count the number of ballots voted at the polling place.

- (3) Account for all ballots on the statement of ballots.

(4) Place all records printed on paper provided by the mechanical recording devices, all storage devices which store the ballots voted on the mechanical recording devices, and any other records, reports and materials as directed by the city clerk into the container provided by him to transport those items to a central counting place and seal the container.

~~{{(d)}}~~ (c) Record the number of voters on a form provided by the city clerk.

2. If a difference exists between the number of voters and the number of ballots voted, the election board shall report the difference and any known reasons for the difference, in writing, to the city clerk.

3. After closing the polls, the election board shall:

(a) Compare the quantity of the supplies furnished by the city clerk with the inventory of those supplies; and

(b) Note any shortages.

4. The city clerk shall allow members of the general public to observe the handling of the ballots pursuant to subsection 1 if those members do not interfere with the handling of the ballots.

Sec. 52. NRS 293C.645 is hereby amended to read as follows:

293C.645 The central ballot inspection board shall:

- 1. Receive the ballots in sealed containers.

2. Inspect the containers, record the number indicated on each container and its seal pursuant to NRS 293.462 and remove the ballots or storage devices that store the ballots voted on mechanical recording devices that directly record votes electronically.

- 3. Register the numbers of ballots by precinct.

4. Deliver any damaged ballots to the ballot duplicating board . ~~{, if the ballots were voted by punching a card.}~~

5. Receive duplicates of damaged ballots from the ballot duplicating board and place the duplicates with the voted ballots of the appropriate precinct . ~~{, if the ballots were voted by punching a card.}~~

6. Place each damaged original ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct . ~~{, if the ballot was voted by punching a card.}~~

7. Reject any ballot that has been marked in a way that identifies the voter.

8. Place each rejected ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct and the reason for the board's rejection of the ballot . ~~{, if the ballot was voted by punching a card.}~~

Sec. 53. NRS 293C.655 is hereby amended to read as follows:

293C.655 ~~{If ballots that are voted by punching a card are used, the}~~ ***The*** ballot duplicating board shall:

1. Receive damaged ballots, including ballots that have been torn, bent or mutilated.

2. ~~{Receive cards with incompletely punched chips.}~~

~~3.}~~ Prepare on a distinctly colored, serially numbered ballot marked "duplicate" an exact copy of each damaged ballot.

~~{4. In the case of a card with an incompletely punched chip:~~

~~(a) Remove the incompletely punched chip if:~~

~~(1) The chip has at least one corner that is detached from the card; or~~

~~(2) The fibers of paper on at least one edge of the chip are broken in a way that permits unimpeded light to be seen through the card; or~~

~~(b) Duplicate the card without punching the location of the incompletely punched chip if:~~

~~(1) The chip does not have at least one corner that is detached from the card; and~~

~~(2) The fibers of paper on no edge of the chip are broken in a way that permits unimpeded light to be seen through the card.~~

~~5.}~~ 3. Record the serial number of the duplicate ballot on the damaged original ballot and return the damaged and duplicate ballots to the appropriate ballot inspection board.

~~{6.}~~ 4. Hold aside the duplicated ballots for counting after all other ballots are counted if this procedure is directed by the city clerk.

Sec. 54. NRS 294A.005 is hereby amended to read as follows:

294A.005 "Candidate" means any person:

1. Who files a declaration of candidacy;

2. Who files an acceptance of candidacy;

3. Whose name appears on an official ballot at any election; or

4. Who has received contributions in excess of \$100 ~~{,}~~ ***regardless of whether:***

***(a) The person has filed a declaration of candidacy or an acceptance of candidacy; or***

***(b) The name of the person appears on an official ballot at any election.***

Sec. 55. NRS 295.056 is hereby amended to read as follows:

295.056 1. Before a petition for initiative or referendum is filed with the Secretary of State, the petitioners must submit to each county clerk for verification pursuant to NRS 293.1276 to 293.1279, inclusive, the document or documents which were circulated for signature within his county. The clerks shall give the person submitting a document or documents a receipt stating the number of documents and pages and the person's statement of the number of signatures contained therein.

2. If a petition for initiative proposes a statute or an amendment to a statute, the document or documents must be submitted not later than the second Tuesday in November of an even-numbered year.

3. If a petition for initiative proposes an amendment to the Constitution, the document or documents must be submitted not later than the third Tuesday in June of an even-numbered year.

4. If the petition is for referendum, the document or documents must be submitted not later than the third Tuesday in May of an even-numbered year.

5. All documents which are submitted to a county clerk for verification must be submitted at the same time. ***If documents concerning the same petition are submitted for verification to more than one county clerk, the documents must be submitted to each county clerk on the same day. At the time that the petition is submitted to a county clerk for verification, the petitioners may designate a contact person who is authorized by the petitioners to address questions or issues relating to the petition.***

Sec. 56. NRS 217.468 is hereby amended to read as follows:

217.468 1. Except as otherwise provided in subsections 2 and 3, the Secretary of State shall cancel the fictitious address of a participant 4 years after the date on which the Secretary of State approved the application.

2. The Secretary of State shall not cancel the fictitious address of a participant if, before the fictitious address of the participant is cancelled, the participant shows to the satisfaction of the Secretary of State that the participant remains in imminent danger of becoming a victim of domestic violence, sexual assault or stalking.

3. The Secretary of State may cancel the fictitious address of a participant at any time if:

(a) The participant changes his confidential address from the one listed in the application and fails to notify the Secretary of State within 48 hours after the change of address; ~~for~~

(b) The Secretary of State determines that false or incorrect information was knowingly provided in the application ~~for~~; or

***(c) The participant files a declaration or acceptance of candidacy pursuant to NRS 293.177 or 293C.185.***

Sec. 57. NRS 353.264 is hereby amended to read as follows:

353.264 1. The Reserve for Statutory Contingency Account is hereby created in the State General Fund.

2. The State Board of Examiners shall administer the Reserve for Statutory Contingency Account. The money in the Account must be expended only for:

(a) The payment of claims which are obligations of the State pursuant to NRS 41.03435, 41.0347, 62I.050, 176.485, 179.310, 212.040, 212.050, 212.070, 281.174, 282.290, 282.315, 288.203, 293.253, 293.405, 353.120, 353.262, 412.154 and 475.235;

(b) The payment of claims which are obligations of the State pursuant to:

(1) Chapter 472 of NRS arising from operations of the Division of Forestry of the State Department of Conservation and Natural Resources directly involving the protection of life and property; and

(2) NRS 7.155, 34.750, 176A.640, 179.225 ~~[-, 213.153 and 293B.210,]~~ **and 213.153,**

↪ except that claims may be approved for the respective purposes listed in this paragraph only when the money otherwise appropriated for those purposes has been exhausted;

(c) The payment of claims which are obligations of the State pursuant to NRS 41.0349 and 41.037, but only to the extent that the money in the Fund for Insurance Premiums is insufficient to pay the claims; and

(d) The payment of claims which are obligations of the State pursuant to NRS 535.030 arising from remedial actions taken by the State Engineer when the condition of a dam becomes dangerous to the safety of life or property.

3. The State Board of Examiners may authorize its Clerk, under such circumstances as it deems appropriate, to approve, on behalf of the Board, the payment of claims from the Reserve for Statutory Contingency Account. For the purpose of exercising any authority granted to the Clerk of the State Board of Examiners pursuant to this subsection, any statutory reference to the State Board of Examiners relating to such a claim shall be deemed to refer to the Clerk of the Board.

Sec. 58. NRS 353.264 is hereby amended to read as follows:

353.264 1. The Reserve for Statutory Contingency Account is hereby created in the State General Fund.

2. The State Board of Examiners shall administer the Reserve for Statutory Contingency Account. The money in the Account must be expended only for:

(a) The payment of claims which are obligations of the State pursuant to NRS 41.03435, 41.0347, 62I.025, 176.485, 179.310, 212.040, 212.050, 212.070, 281.174, 282.290, 282.315, 288.203, 293.253, 293.405, 353.120, 353.262, 412.154 and 475.235;

(b) The payment of claims which are obligations of the State pursuant to:

(1) Chapter 472 of NRS arising from operations of the Division of Forestry of the State Department of Conservation and Natural Resources directly involving the protection of life and property; and

(2) NRS 7.155, 34.750, 176A.640, 179.225 ~~[-, 213.153 and 293B.210,]~~ **and 213.153,**



↪ except that claims may be approved for the respective purposes listed in this paragraph only when the money otherwise appropriated for those purposes has been exhausted;

(c) The payment of claims which are obligations of the State pursuant to NRS 41.0349 and 41.037, but only to the extent that the money in the Fund for Insurance Premiums is insufficient to pay the claims; and

(d) The payment of claims which are obligations of the State pursuant to NRS 535.030 arising from remedial actions taken by the State Engineer when the condition of a dam becomes dangerous to the safety of life or property.

3. The State Board of Examiners may authorize its Clerk, under such circumstances as it deems appropriate, to approve, on behalf of the Board, the payment of claims from the Reserve for Statutory Contingency Account. For the purpose of exercising any authority granted to the Clerk of the State Board of Examiners pursuant to this subsection, any statutory reference to the State Board of Examiners relating to such a claim shall be deemed to refer to the Clerk of the Board.

Sec. 59. NRS 293B.160 and 293B.210 are hereby repealed.

Sec. 60. 1. This section, sections 1 to 57, inclusive, and 59 of this act become effective upon passage and approval.

2. Section 57 of this act expires by limitation upon enactment of the Interstate Compact for Juveniles into law by the 35th jurisdiction.

3. Section 58 of this act becomes effective upon enactment of the Interstate Compact for Juveniles into law by the 35th jurisdiction.

#### TEXT OF REPEALED SECTIONS

293B.160 Test program and card deck to be used for certain mechanical voting systems at election. If a mechanical voting system is used whereby votes are cast by punching a card, the computer program and the program card deck used for the test prescribed by NRS 293B.150 must be used to count those ballots which were voted by punching a card for the election.

293B.210 Clerk to furnish lists of candidates and measures to be voted on at election; Secretary of State to provide to or reimburse county for cards used in elections.

1. If a mechanical voting system is used whereby a vote is cast by punching a card, the county or city clerk shall furnish sufficient lists of offices and candidates and the statements of measures to be voted on for the mechanical recording devices used at any election.

2. The Secretary of State shall provide to or reimburse each county for all cards used in each primary or general election. Any reimbursement must be paid from the Reserve for Statutory Contingency Account upon recommendation by the Secretary of State and approval by the State Board of Examiners.

Assemblywoman Koivisto moved that the Assembly concur in the Senate amendment to Assembly Bill No. 517.

Remarks by Assemblywoman Koivisto.  
Motion carried by a constitutional majority.  
Bill ordered to enrollment.

Assembly Joint Resolution No. 10.

The following Senate amendment was read:

Amendment No. 866.

SUMMARY—Urges Congress ~~[not to reauthorize]~~ **to reevaluate** the “fast track” approval of international trade agreements. (BDR R-1295)

ASSEMBLY JOINT RESOLUTION—Urging Congress ~~[not to reauthorize]~~ **to reevaluate** the “fast track” approval of international trade agreements.

WHEREAS, As international trade has evolved in recent years under the “fast track” authority by which Congress reviews international trade agreements involving the United States, the authority for which will expire on June 30, 2007, significant questions have developed with respect to the continuing ability of states to retain their character, environmental controls and quality of life; and

WHEREAS, Under “fast track” rules, the review of complex trade agreements by Congress is limited to a vote to approve or reject the agreements, after limited time for consideration, without the possibility of amendments; and

WHEREAS, Trade agreements today have an impact which extends significantly beyond the bounds of traditional trade matters such as tariffs and quotas, and instead grant foreign investors and service providers certain rights and privileges regarding acquisition of land and facilities and regarding operations within a state’s territory, subject state laws to challenge as “non-tariff barriers to trade” in the binding dispute resolution bodies that accompany the pacts and place limits on the future policy options of state legislatures; and

WHEREAS, Despite the demonstrated variety of significant impacts that trade and investment agreements have on state governance, taxation authority, environmental protection, land use regulation and many other areas of state interest, states and local governments have not received assurances that their concerns will be adequately addressed in any “fast track” renewal process; and

WHEREAS, Federal legislation should clarify the negotiating agenda of the United States in a manner that establishes a stronger role for states and should include an explicit mechanism for the prior informed consent of affected state legislatures; now, therefore, be it

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That the Nevada Legislature hereby urges Congress ~~[not to reauthorize the “fast track” approval of international trade agreements, and instead replace that authority with a more democratic, inclusive]~~ **to reevaluate the “fast track” approval of international trade agreements, and to consider replacing that authority with a more democratic,**

**inclusive and deliberative** mechanism which takes into consideration the concerns of state legislatures and authorizes their participation in the international trade agreement process; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Assemblywoman Koivisto moved that the Assembly concur in the Senate amendment to Assembly Joint Resolution No. 10.

Remarks by Assemblywoman Koivisto.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 41.

The following Senate amendment was read:

Amendment No. 735.

AN ACT relating to podiatry; revising provisions relating to requirements for licenses to practice podiatry; ~~authorizing the State Board of Podiatry to adopt regulations increasing the maximum application and examination fees for such licenses;~~ eliminating certain obsolete provisions concerning examinations for licensure; **revising the requirements for reinstatement of a delinquent license**; providing that the insured under certain policies of health insurance is entitled under certain circumstances to reimbursement for the treatment of an illness by a podiatrist licensed by the Board; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~f Sections 2 and 5 of this bill revise the examination requirement to obtain a license to practice podiatry to provide that a person must have passed that examination within the 5 years immediately preceding the date of his application for a license to practice podiatry or a temporary license to practice podiatry. Sections 2, 4 and 5 of this bill authorize the State Board of Podiatry to increase the fees required to be paid to apply for a license to practice podiatry or a limited or temporary license to practice podiatry. Sections 1, 3, 6 and 11.]~~ Section 1 of this bill requires an applicant for a license to practice podiatry in this State who has been licensed to practice podiatry in another state to provide information concerning his disciplinary history in that state. Section 1 also authorizes the Board to require such an applicant to pass an examination concerning the laws of this State relating to the practice of podiatry or to satisfy other requirements. Sections 2, 4, 7 and 13 of this bill eliminate certain obsolete provisions concerning examinations for licensure. **Section 8 of this bill revises the requirements to reinstate a license that has been delinquent for more than 1 year.**

Sections ~~[7-10]~~ 9-12 of this bill provide that if a policy of health insurance, policy of group health insurance, contract for hospital or medical services, or evidence of coverage under a health care plan provides coverage for the treatment of an illness which is within the scope of practice of a qualified podiatrist, the insured is entitled to reimbursement for treatments by a podiatrist who is licensed by the Board.

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

**Section 1.** Chapter 635 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to the other requirements for licensure set forth in this chapter, an applicant for a license to practice podiatry in this State who has been licensed to practice podiatry in another state or the District of Columbia must submit:

(a) An affidavit signed by the applicant that:

(1) Identifies each jurisdiction in which he has been licensed to practice; and

(2) States whether a disciplinary proceeding has ever been instituted against him by the licensing board of that jurisdiction and, if so, the status of the proceeding; and

(b) If the applicant is currently licensed to practice podiatry in another state or the District of Columbia, a certificate from the licensing board of that jurisdiction stating that the applicant is in good standing and no disciplinary proceedings are pending against him.

2. The Board may require an applicant who has been licensed to practice podiatry in another state or the District of Columbia to:

(a) Pass an examination prescribed by the Board concerning the provisions of this chapter and any regulations adopted pursuant thereto; or

(b) Submit satisfactory proof that:

(1) He maintained an active practice in another state or the District of Columbia within the 5 years immediately preceding his application;

(2) No disciplinary proceeding has ever been instituted against him by a licensing board in any jurisdiction in which he is licensed to practice podiatry; and

(3) He has participated in a program of continuing education that is equivalent to the program of continuing education that is required pursuant to NRS 635.115 for podiatric physicians licensed in this State.

~~[Section 1.]~~ Sec. 2. NRS 635.020 is hereby amended to read as follows:

635.020 1. The State Board of Podiatry, consisting of five members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

(a) Three members who are licensed podiatric physicians in the State of Nevada.

(b) One member who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care. This member may be licensed under the provisions of this chapter.

(c) One member who is a representative of the general public. This member must not be:

(1) A licensed podiatric physician in the State of Nevada; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a licensed podiatric physician in the State of Nevada.

3. The members of the Board are entitled to receive:

(a) A salary of not more than \$80 per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

4. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

~~{5. If a member is not licensed under the provisions of this chapter, the member shall not participate in preparing, conducting or grading any examination required by the Board.}~~

~~{Sec. 2.}~~ **Sec. 3.** NRS 635.050 is hereby amended to read as follows:

635.050 1. Any person ~~{desiring}~~ **wishing** to practice podiatry in this State must ~~{furnish}~~, **before beginning to practice, procure from the Board** ~~{with satisfactory proof that he:}~~ **a license to practice podiatry.**

**2. A license to practice podiatry may be issued by the Board to any person who:**

(a) Is of good moral character.

(b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

(c) Has received the degree of D.P.M., Doctor of Podiatric Medicine, from an accredited school of podiatry.

(d) Has completed a residency approved by the Board.

(e) Has passed the examination given by the National Board of Podiatric Medical Examiners ~~{within the 5 years immediately preceding the date of his application for a license to practice podiatry.}~~

(f) Has not committed any act described in subsection 2 of NRS 635.130. For the purposes of this paragraph, an affidavit signed by the applicant stating that he has not committed any act described in subsection 2 of NRS 635.130 constitutes satisfactory proof.

~~{2.}~~ **3.** An applicant ~~{is entitled to be examined by}~~ **for a license to practice podiatry must submit to** the Board or a committee thereof pursuant to such regulations as the Board may adopt ~~{if he:}~~

~~{a) Pays}.~~

~~(a) If the applicant has satisfied the examination requirement set forth in paragraph (c) of subsection 2, the~~ ;

~~(a) The~~ fee for an application for a license of not more than \$600;

~~(b) Pays~~ ~~[\$900;~~

~~(b) If the applicant has not satisfied the examination requirement set forth in paragraph (c) of subsection 2, the fee for~~ ~~the~~ ~~an application and an examination for a license of not more than~~ \$200;

~~(c) Submits proof~~ ~~[\$1,500;~~

~~(c) Proof~~ satisfactory to the Board ~~as required by subsection 1; and~~

~~(d) Submits all~~ **that the requirements of subsection 2 have been met;**  
**and**

~~((d))~~ **(c) All other** information required **by the Board** to complete an application for a license.

↪ The Board shall, by regulation, establish the ~~fees~~ **fee** required to be paid pursuant to this subsection.

~~{3.}~~ **4.** The Board may reject an application if it appears that the applicant's credentials are fraudulent or the applicant has practiced podiatry without a license or committed any act described in subsection 2 of NRS 635.130.

~~{4.}~~ **5.** The Board may require such further documentation or proof of qualification as it may deem proper.

~~{5.}~~ **6.** The provisions of this section do not apply to a person who applies for ~~it~~ :

~~(a) A~~ limited license to practice podiatry pursuant to NRS 635.075 ~~;~~ **or**

~~(b) A temporary~~ **provisional license to practice podiatry pursuant to NRS 635.082.**

~~{Sec. 3.}~~ **Sec. 4.** NRS 635.070 is hereby amended to read as follows:

635.070 Without unnecessary delay , ~~after the examination,~~ the Board shall act ~~on the examination,~~ **upon an application for a license submitted pursuant to this chapter.** If an applicant is found qualified, he must be issued a license to practice podiatry, or as a podiatry hygienist, as the case may be.

~~{Sec. 4.}~~ **Sec. 5.** NRS 635.075 is hereby amended to read as follows:

635.075 1. The Board shall issue a limited license to practice podiatry pursuant to this section to each applicant who complies with the provisions of this section.

2. An applicant for a limited license to practice podiatry must submit to the Board:

(a) An application on a form provided by the Board;

(b) A fee in the amount of the fee for an application for a license required pursuant to paragraph (a) of subsection ~~{2}~~ **3** of NRS 635.050; and

(c) Satisfactory proof that he:

(1) Is of good moral character;

(2) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(3) For not less than 25 years:

(I) Was licensed to practice podiatry in one or more states or the District of Columbia and practiced podiatry during the period each such license was in effect; and

(II) Remained licensed in good standing at all times during the period he was licensed to practice podiatry; and

(4) Has not committed any act described in subsection 2 of NRS 635.130. For the purposes of this subparagraph, an affidavit signed by the applicant stating that he has not committed any act described in subsection 2 of NRS 635.130 constitutes satisfactory proof.

3. An applicant for a limited license is not required to be licensed to practice podiatry in another state or the District of Columbia when he submits the application for a limited license to the Board.

4. A person who is issued a limited license pursuant to this section may practice podiatry only under the direct supervision of a podiatric physician who is licensed pursuant to this chapter and who does not hold a limited license issued pursuant to this section.

5. A limited license issued pursuant to this section:

(a) Is effective upon issuance; and

(b) May be renewed in the manner prescribed in NRS 635.110.

6. The Board may:

(a) Place such restrictions and conditions upon a limited license issued pursuant to this section as the Board deems appropriate; and

(b) Adopt regulations to carry out the provisions of this section.

~~{Sec. 5.}~~ **Sec. 6.** NRS 635.082 is hereby amended to read as follows:

635.082 1. A graduate of an accredited school of podiatry may, during his residency, be granted a ~~{temporary}~~ **provisional** license to practice podiatry under the direct supervision of a podiatric physician licensed to practice in this State. A ~~{temporary}~~ **provisional** license must not be effective for more than 1 year and is not renewable.

2. ~~{An applicant for a}~~ A ~~{temporary}~~ **provisional** license ~~{must furnish}~~ **to practice podiatry may be issued by** the Board ~~{with satisfactory proof that he:}~~ **to any person who:**

(a) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

(b) Has received the degree of D.P.M. (Doctor of Podiatric Medicine) from an accredited school of podiatry.

(c) Has passed the examination given by the National Board of ~~{Podiatric Examiners}~~.

~~3. Upon payment of a fee, not exceeding \$600, which}~~ **Podiatric Medical Examiners** ~~{within the 5 years immediately preceding the date of his application for a temporary license to practice podiatry.}~~

**3. An applicant for a ~~{temporary}~~ provisional license to practice podiatry must submit to the Board or a committee thereof pursuant to such regulations as the Board may adopt:**

(a) ~~[[If the applicant has satisfied the examination requirement set forth in paragraph (c) of subsection 2, the]]~~ **The fee for an application for a** ~~[[temporary]]~~ **provisional license of not more than \$900;**

(b) ~~[[If the applicant has not satisfied the examination requirement set forth in paragraph (c) of subsection 2, the fee for an application and an examination for a temporary license of not more than \$1,500;~~

~~[[c)]]~~ **than \$600;**

(b) **Proof satisfactory to the Board that the requirements of subsection 2 have been met; and**

~~[[d)]]~~ (c) **All other information required by the Board to complete an application for a** ~~[[temporary]]~~ **provisional license.**

4. ~~The fees]~~ **fee required pursuant to subsection 3** must be established by regulation of the Board . ~~[[, and the presentation of satisfactory proof as required by subsection 2, an applicant is entitled to be examined by the Board or a committee thereof pursuant to such regulations as the Board may adopt.~~

~~4.]~~ 5. The Board may by regulation govern the issuance and conditions of the ~~[[temporary]]~~ **provisional** license.

~~[[Sec. 6.]~~ **Sec. 7.** NRS 635.093 is hereby amended to read as follows:  
635.093 ~~[[.]~~ Any person ~~[[desiring]]~~ **wishing** to be licensed as a podiatry hygienist in this State must ~~[[furnish]]~~ :

1. **Furnish** the Board with satisfactory proof that he:

(a) Is of good moral character.

(b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

(c) Has satisfactorily completed a course for podiatry hygienists approved by the Board or has had 6 months or more of training in a podiatric physician's office as approved by the Board.

2. ~~[[Upon payment of a fee, not exceeding \$100, which must be established by regulation of the Board, presenting satisfactory proof as required by subsection 1 and submitting]]~~ **Submit** all information required to complete an application for a license . ~~[[, an applicant, not exempted under subsection 3, must be examined by the Board or a committee thereof under such regulations as the Board may adopt.~~

3. ~~The Board may, without examination, admit to practice as a podiatry hygienist a person who is employed by a podiatric physician and is:~~

~~(a) A registered nurse; or~~

~~(b) A licensed practical nurse whom the Board or any of its members have interviewed and observed in the use of practical skills.]~~

3. **Pay to the Board a fee, not exceeding \$100, which must be established by regulation of the Board.**

**Sec. 8.** NRS 635.110 is hereby amended to read as follows:

635.110 **Except as otherwise provided in NRS 635.082:**

1. A license issued under the provisions of this chapter expires on October 31 of each year. A license may be renewed before its expiration upon presentation of proof of:



(a) Completion of the hours of continuing education required pursuant to NRS 635.115;

(b) Current certification in the techniques of administering cardiopulmonary resuscitation;

(c) Submission of all information required to complete the renewal; and

(d) Payment of a renewal fee in an amount not to exceed \$600 for a podiatric physician and not to exceed \$100 for a podiatry hygienist. The Board shall, by regulation, establish the amount of each fee.

2. A license which is not renewed by October 31 of each year is delinquent. A delinquent license may be reinstated, at the discretion of the Board ~~[, upon]~~ :

(a) Upon payment of the appropriate annual renewal fee and an additional ~~[annual]~~ fee for delinquency in an amount established by the Board ~~[,]~~ ; and

(b) If the license is delinquent for more than 1 year, upon the holder of the delinquent license:

(1) Passing an examination prescribed by the Board concerning the provisions of this chapter and any regulations adopted pursuant thereto; or

(2) Submitting satisfactory proof that:

(I) He maintained an active practice in another state or the District of Columbia within the 5 years immediately preceding his application;

(II) No disciplinary proceeding has ever been instituted against him by a licensing board in any jurisdiction in which he is licensed to practice podiatry; and

(III) If he is a podiatric physician, he has participated in a program of continuing education that is equivalent to the program of continuing education required pursuant to NRS 635.115 for podiatric physicians licensed in this State.

~~[Sec. 7.]~~ **Sec. 9.** Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If any policy of health insurance provides coverage for treatment of an illness which is within the authorized scope of practice of a qualified podiatrist, the insured is entitled to reimbursement for treatments by a podiatrist who is licensed pursuant to chapter 635 of NRS.*

2. *The terms of the policy must not limit:*

(a) *Coverage for treatments by a podiatrist to a number less than for treatments by other physicians.*

(b) *Reimbursement for treatments by a podiatrist to an amount less than that reimbursed for similar treatments by other physicians.*

~~[Sec. 8.]~~ **Sec. 10.** Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If any group policy of health insurance provides coverage for treatment of an illness which is within the authorized scope of practice of a qualified podiatrist, the insured is entitled to reimbursement for treatments by a podiatrist who is licensed pursuant to chapter 635 of NRS.*

2. *The terms of the policy must not limit:*

*(a) Coverage for treatments by a podiatrist to a number less than for treatments by other physicians.*

*(b) Reimbursement for treatments by a podiatrist to an amount less than that reimbursed for similar treatments by other physicians.*

~~[Sec. 9.]~~ **Sec. 11.** Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:

**1.** *If any contract for hospital or medical services provides coverage for treatment of an illness which is within the authorized scope of practice of a qualified podiatrist, the insured is entitled to reimbursement for treatments by a podiatrist who is licensed pursuant to chapter 635 of NRS.*

**2.** *The terms of the policy must not limit:*

*(a) Coverage for treatments by a podiatrist to a number less than for treatments by other physicians.*

*(b) Reimbursement for treatments by a podiatrist to an amount less than that reimbursed for similar treatments by other physicians.*

~~[Sec. 10.]~~ **Sec. 12.** Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

**1.** *If any evidence of coverage provides coverage for treatment of an illness which is within the authorized scope of practice of a qualified podiatrist, the insured is entitled to reimbursement for treatments by a podiatrist who is licensed pursuant to chapter 635 of NRS.*

**2.** *The terms of the policy must not limit:*

*(a) Coverage for treatments by a podiatrist to a number less than for treatments by other physicians.*

*(b) Reimbursement for treatments by a podiatrist to an amount less than that reimbursed for similar treatments by other physicians.*

~~[Sec. 11.]~~ **Sec. 13.** NRS 635.060 is hereby repealed.

~~[Sec. 12.]~~ **Sec. 14.** This act becomes effective on July 1, 2007.

#### TEXT OF REPEALED SECTION

635.060 Examination: Time; place; subjects; regulations to establish passing requirements.

1. The Board shall hold at least one examination each year to examine applicants under this chapter. The Board shall establish the time and place for the examination.

2. The Board shall provide such books, blanks and forms as may be necessary to conduct the examination.

3. The examination for licensure under this chapter must be in the English language, written, oral or clinical, as the Board may determine. The examination for podiatric physicians may include the following subjects: Anesthesia and medications, bacteriology, clinical podiatry, dermatology, diagnosis and treatment, laboratory, neurology, orthopedics, pathology, pharmacology, including pharmacodynamics and materia medica, sterilization and sterile technique, surgery, surgical anatomy, X ray, and such

other subjects pertaining to the treatment of the foot and leg as the Board may determine.

4. The Board shall establish by regulation the requirements for passing the examination.

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 41.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 53.

The following Senate amendment was read:

Amendment No. 733.

SUMMARY—Makes various changes regarding ~~[licenses for and disciplinary action against]~~ administrators of facilities for long-term care. (BDR 54-570)

AN ACT relating to administrators of facilities for long-term care; ~~[providing for the reinstatement of expired licenses for administrators of a residential facility for groups or nursing facility administrators; requiring the payment of a fee for reinstatement; requiring the Nevada State Board of Examiners for Administrators of Facilities for Long-Term Care to make reasonable efforts to notify licensees of license renewal requirements and license expirations;]~~ revising provisions governing the authority of the Nevada State Board of Examiners for Administrators of Facilities for Long-Term Care to take disciplinary action against a person who holds a license; authorizing the Board to proceed with certain investigations, actions or disciplinary proceedings against persons with expired licenses; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the licensing of administrators of facilities for long-term care. (NRS 654.140-654.180) ~~[The license of a nursing facility administrator or an administrator of a residential facility for groups expires 2 years after it was issued unless it is renewed. (NRS 654.170) Section 2 of this bill requires the Nevada State Board of Examiners for Administrators of Facilities for Long-Term Care to reinstate a license that expired if the person who held the license pays a fee and fulfills certain other requirements. Section 2 also requires the Board to make reasonable efforts to notify a person who holds a license that renewal of a license is coming due and to notify a person if the license held by the person expired.]~~

Under existing law, the Nevada State Board of Examiners for Administrators of Facilities for Long-Term Care may impose an administrative fine of not more than \$2,500 on a person who holds a license and may suspend or revoke a license for various violations. (NRS 654.190) Section 3 of this bill increases the maximum amount of the administrative fine that the Board may impose to not more than \$5,000 and authorizes the

Board to recover reasonable investigative fees and costs, to place conditions on a license and to place a person who holds a license on probation. Section 3 also adds violations which would subject a person who holds a license to disciplinary action by the Board and provides that the expiration of a license or the voluntary surrender of a license does not deprive the Board of jurisdiction to continue disciplinary proceedings against the person who held the license.

Existing law authorizes the reinstatement of a suspended license of an administrator of a residential facility for groups if a majority of the members of the Board vote in favor of the reinstatement. (NRS 654.195) Section 4 of this bill additionally authorizes reinstatement of the license if the person who held the license reapplies for the license and the Board determines that the person meets the requirements for the issuance of a license.

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

Section 1. NRS 654.028 is hereby amended to read as follows:

654.028 "Nursing facility administrator" means a person who manages, supervises and is in general administrative charge of a facility for skilled nursing or facility for intermediate care ~~[-] of patients.~~

Sec. 2. ~~[NRS 654.170 is hereby amended to read as follows:~~

~~654.170 1. The Board shall issue a numbered license, in such form as it may prescribe, to each applicant who meets the requirements of NRS 654.150 or 654.155 and shall affix its official seal to the license.~~

~~2. Each license issued by the Board pursuant to this chapter expires 2 years after the last day of the calendar month in which it was issued and may be renewed on or before that date biennially.~~

~~3. Any licensed nursing facility administrator or administrator of a residential facility for groups may renew his license by applying for renewal in the manner prescribed by the Board, paying the renewal fee fixed by the Board and submitting all information required to complete the renewal.~~

~~4. The Board shall, as a prerequisite for the renewal of a license, require each holder to comply with:~~

~~(a) The requirements for continuing education adopted by the Board; and~~

~~(b) The duties of the administrator set forth in NRS 449.0357.~~

~~5. The Board shall reinstate a license which has expired pursuant to subsection 2 if:~~

~~(a) Not later than 2 years after the date the license expired, the person who held the license:~~

~~(1) Applies to the Board for the reinstatement of the license in the manner prescribed by the Board;~~

~~(2) Pays to the Board a fee for the reinstatement of the license equal to twice the amount of the renewal fee fixed by the Board pursuant to subsection 3; and~~

~~(3) Submits all information required by the Board pursuant to subsection 3 for renewal; and~~

~~(b) The Board determines that the person meets the requirements of NRS 654.150 or 654.155.~~

~~6. The Board shall make reasonable efforts to notify each person who holds a license:~~

~~(a) Before the license expires pursuant to subsection 2, that if the person does not submit the renewal fee and all the information required to complete the renewal, the license will expire pursuant to subsection 2; and~~

~~(b) That if the person did not pay the renewal fee and submit all the information required to complete the renewal before the license expired pursuant to subsection 2, the license has expired.] (Deleted by amendment.)~~

Sec. 3. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and a hearing as required by law, impose an administrative fine of not more than ~~[\$2,500 on and suspend or] \$5,000 on, recover reasonable investigative fees and costs incurred from, suspend, revoke or place conditions on~~ the license of , **and place on probation** any nursing facility administrator or administrator of a residential facility for groups who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his license by the use of fraud or deceit.

(c) Violates any of the provisions of this chapter.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.001 to 449.240, inclusive, as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

(e) Violates any regulation of the Board prescribing additional standards of conduct for nursing facility administrators or administrators of residential facilities for groups ~~[-], including, without limitation, a code of ethics.~~

**(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the nursing facility administrator or administrator of a residential facility for groups and the patient or resident for the financial or other gain of the licensee.**

2. The Board shall give a licensee against whom proceedings are brought pursuant to this section written notice of a hearing not less than 10 days before the date of the hearing.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

**4. 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, 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.**

Sec. 4. NRS 654.195 is hereby amended to read as follows:

654.195 1. Except as otherwise provided in subsection 2, the Board may reinstate the license of an administrator of a residential facility for groups that has been suspended by the Board if ~~{a}~~ :

(a) A majority of the members of the Board vote in favor of the reinstatement ~~{-}~~; *or*

(b) *The person who held the license reapplies for a license as an administrator of a residential facility for groups pursuant to NRS 654.140 and the Board determines that the person meets the requirements of NRS 654.155.*

2. The Board may reinstate a license of an administrator of a residential facility for groups that has been suspended pursuant to NRS 425.540 only if the holder of the license complies with the requirements for reinstatement set forth in NRS 654.193.

3. In a manner consistent with the provisions of chapter 622A of NRS, the Board may reinstate the license of an administrator of a residential facility for groups that has been revoked by the Board if all of the members of the Board vote in favor of reinstatement.

Sec. 5. NRS 654.195 is hereby amended to read as follows:

654.195 1. The Board may reinstate the license of an administrator of a residential facility for groups that has been suspended by the Board if ~~{a}~~ :

(a) A majority of the members of the Board vote in favor of the reinstatement ~~{-}~~; *or*

(b) *The person who held the license reapplies for a license as an administrator of a residential facility for groups pursuant to NRS 654.140 and the Board determines that the person meets the requirements of NRS 654.155.*

2. In a manner consistent with the provisions of chapter 622A of NRS, the Board may reinstate the license of an administrator of a residential facility for groups that has been revoked by the Board if all of the members of the Board vote in favor of reinstatement.

Sec. 6. 1. This section and sections 1 ~~{-2 and 3-}~~ to 4, inclusive, of this act become effective upon passage and approval.

2. Section ~~{3}~~ 4 of this act expires by limitation on the date 2 years after 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.

3. Section ~~{4}~~ 5 of this act becomes effective 2 years after 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 Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 53.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 101.

The following Senate amendment was read:

Amendment No. 682.

AN ACT relating to the Commission on Tourism; amending the membership of the Commission; making certain ex officio nonvoting members of the Commission voting members; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Commission on Tourism is comprised of the Lieutenant Governor, eight members who are appointed by the Governor and three ex officio nonvoting members who are the chief administrative officers of the county fair and recreation boards or, if there are no county fair and recreation boards, the chairmen of the boards of county commissioners, of the three counties that paid the largest amount of the proceeds from the tax on transient lodging for credit to the Fund for the Promotion of Tourism. (NRS 231.170, 231.250) Section 2 of this bill reduces the number of ex officio **nonvoting** members on the Commission from three to two (the overall membership of the Commission is therefore reduced from twelve to eleven) and ~~provides that the ex officio members are the executive officers of the convention and visitors authorities of the two counties that paid the largest amount of the proceeds from the tax on transient lodging for credit to the Fund. Section 2 of this bill also~~ makes ~~the ex officio nonvoting~~ **those members voting** members of the Commission. ~~voting members.~~

Section 3 of this bill increases the number of members of the Commission required to constitute a quorum from four members to six members as a result of the increased number of voting members on the Commission. (NRS 231.180)

Section 4 of this bill clarifies that only the appointed members of the Commission are entitled to a salary for their attendance at meetings of the Commission. (NRS 231.190)

Sections 1 and 5-12 of this bill change the title of the "Executive Director" of the Commission to the "Director" for the purpose of conformance to existing usage.

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

Section 1. NRS 231.015 is hereby amended to read as follows:

231.015 1. The Interagency Committee for Coordinating Tourism and Economic Development is hereby created. The Committee consists of the Governor, who is its Chairman, the Lieutenant Governor, who is its Vice Chairman, the ~~Executive~~ Director of the Commission on Tourism, the Executive Director of the Commission on Economic Development and such other members as the Governor may from time to time appoint. The appointed members of the Committee serve at the pleasure of the Governor.

2. The Committee shall meet at the call of the Governor.

3. The Committee shall:

(a) Identify the strengths and weaknesses in state and local governmental agencies which enhance or diminish the possibilities of tourism and economic development in this State.

(b) Foster coordination and cooperation among state and local governmental agencies, and enlist the cooperation and assistance of federal agencies, in carrying out the policies and programs of the Commission on Tourism and the Commission on Economic Development.

(c) Formulate cooperative agreements between the Commission on Tourism or the Commission on Economic Development, and state and other public agencies pursuant to the Interlocal Cooperation Act, so that each of those commissions may receive applications from and, as appropriate, give governmental approval for necessary permits and licenses to persons who wish to promote tourism, develop industry or produce motion pictures in this State.

4. The Governor may from time to time establish regional or local subcommittees to work on regional or local problems of economic development or the promotion of tourism.

Sec. 2. NRS 231.170 is hereby amended to read as follows:

231.170 1. The Commission on Tourism is composed of ~~the~~ **11 voting members as follows:**

(a) **The** Lieutenant Governor, who is its Chairman ~~[-and eight];~~

(b) **Eight** members, ~~[who are]~~ appointed by the Governor, ~~[-~~

~~2. The Governor shall appoint as members of the Commission persons] who are informed on and have experience in travel and tourism, including the business of gaming [-~~

~~3.]; and~~

(c) The chief administrative ~~executive~~ officers of the county fair and recreation boards ~~[convention and visitors authorities]~~ or, if there is no county fair and recreation board ~~[convention and visitors authority]~~ in the



county, the chairman of the board of county commissioners, of the ~~{three}~~ **two** counties that paid the largest amount of the proceeds from the taxes imposed on the revenue from the rental of transient lodging to the Department of Taxation for deposit with the State Treasurer for credit to the Fund for the Promotion of Tourism created by NRS 231.250 for the previous fiscal year. ~~{are ex-officio but nonvoting members of the Commission.}~~

2. A change in any member of the Commission who serves pursuant to ~~{the provisions of this}~~ **paragraph (c) of** subsection **1** that is required because of a change in the amount of the proceeds paid to the Department of Taxation by each county must be effective on January 1 of the calendar year immediately following the fiscal year in which the proceeds were paid to the Department of Taxation.

~~{4. In addition to the appointments made}~~

3. **Of the members appointed by the Governor** pursuant to **paragraph (b) of** subsection ~~{3, the Governor shall appoint.}~~ **1:**

(a) At least one member ~~{who is}~~ **must be** a resident of ~~{Clark County.}~~ **a county whose population is 400,000 or more.**

(b) At least one member ~~{who is}~~ **must be** a resident of ~~{Washoe County.}~~ **a county whose population is 100,000 or more but less than 400,000.**

(c) At least two members ~~{who are}~~ **must be** residents of counties whose population is **less than** 100,000. ~~{or less.}~~

(d) ~~{One member who is}~~ **Four members must be** ~~{a resident}~~ **residents** of any county in this State.

Sec. 3. NRS 231.180 is hereby amended to read as follows:

231.180 1. The Commission on Tourism shall meet once each calendar quarter, or at more frequent times if it deems necessary, and may, within the limitations of its budget, hold special meetings at the call of the Chairman or a majority of the members.

2. The ~~{Executive}~~ Director is the Secretary of the Commission.

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

4. ~~{Four}~~ **Six** members of the Commission constitute a quorum. ~~{, but a majority of the members of the Commission are required to exercise the power conferred on the Commission.}~~

5. The Governor may remove ~~{a}~~ **an appointed** member from the Commission if the member neglects his duty or commits malfeasance in office.

Sec. 4. NRS 231.190 is hereby amended to read as follows:

231.190 Each **appointed** member of the Commission on Tourism is entitled to receive a salary of \$80 for each day's attendance at a meeting of the Commission.

Sec. 5. NRS 231.210 is hereby amended to read as follows:

231.210 The ~~{Executive}~~ Director of the Commission on Tourism:

1. Must be appointed by the Governor from a list of three persons submitted to him by the Commission.

2. Is responsible to the Commission and serves at its pleasure.

3. Shall, except as otherwise provided in NRS 284.143, devote his entire time to the duties of his office, and he shall not follow any other gainful employment or occupation.

Sec. 6. NRS 231.220 is hereby amended to read as follows:

231.220 The ~~{Executive}~~ Director of the Commission on Tourism shall direct and supervise all its administrative and technical activities, including coordinating its plans for tourism and publications, scheduling its programs, analyzing the effectiveness of those programs and associated expenditures, and cooperating with other governmental agencies which have programs related to travel and tourism. In addition to other powers and duties, the ~~{Executive}~~ Director:

1. Shall attend all meetings of the Commission and act as its Secretary, keeping minutes and audio recordings or transcripts of its proceedings.

2. Shall report regularly to the Commission concerning the administration of its policies and programs.

3. Shall serve as the Director of the Division of Tourism.

4. Shall appoint the Administrator of the Division of Publications.

5. May perform any other lawful acts which he considers necessary to carry out the provisions of NRS 231.160 to 231.360, inclusive.

Sec. 7. NRS 231.230 is hereby amended to read as follows:

231.230 1. The Commission on Tourism through its ~~{Executive}~~ Director may:

(a) Employ such professional, technical, clerical and operational employees as the operation of the Commission may require; and

(b) Employ such experts, researchers and consultants and enter into such contracts with any public or private entities as may be necessary to carry out the provisions of NRS 231.160 to 231.360, inclusive.

2. The ~~{Executive}~~ Director and all other nonclerical employees of the Commission are in the unclassified service of the State.

3. The clerical employees of the Commission are in the classified service of the State.

Sec. 8. NRS 231.240 is hereby amended to read as follows:

231.240 1. The ~~{Executive}~~ Director of the Commission on Tourism may charge reasonable fees for materials prepared for distribution.

2. All such fees must be deposited with the State Treasurer for credit to the Commission. The fees must first be expended exclusively for materials and labor incident to preparing and printing those materials for distribution. Any remaining fees may be expended, in addition to any other money appropriated, for the support of the Commission.

Sec. 9. NRS 231.300 is hereby amended to read as follows:

231.300 In performing their duties, the ~~{Executive}~~ Director of the Commission on Tourism and the Administrator of the Division of Publications shall not interfere with the functions of any other state agencies, but those agencies shall, from time to time, on reasonable request, furnish the

~~{Executive}~~ Director and Administrator with data and other information from their records bearing on the objectives of the Commission and its divisions. The ~~{Executive}~~ Director and Administrator shall avail themselves of records and assistance of such other state agencies as might make a contribution to the work of the Commission.

Sec. 10. NRS 235.012 is hereby amended to read as follows:

235.012 1. The Director, after consulting with the ~~{Executive}~~ Director of the Commission on Tourism, the Administrator of the Division of Museums and History of the Department of Cultural Affairs and the Administrator of the Division of Minerals of the Commission on Mineral Resources, may contract with a mint to produce medallions made of gold, silver, platinum or nonprecious metals and bars made of gold, silver or platinum.

2. The decision of the Director to award a contract to a particular mint must be based on the ability of the mint to:

- (a) Provide a product of the highest quality;
- (b) Advertise and market the product properly, including the promotion of museums and tourism in this State; and
- (c) Comply with the requirements of the contract.

3. The Director shall award the contract to the lowest responsible bidder, except that if in his judgment no satisfactory bid has been received, he may reject all bids.

4. All bids for the contract must be solicited in the manner prescribed in NRS 333.310 and comply with the provisions of NRS 333.330.

Sec. 11. NRS 235.014 is hereby amended to read as follows:

235.014 1. The ore used to produce a medallion or bar must be mined in Nevada, if the ore is available. If it is not available, ore newly mined in the United States may be used. Each medallion or bar made of gold, silver or platinum must be 0.999 fine. Additional series of medallions made of gold, silver or platinum at degrees of fineness of 0.900 or greater may be approved by the Director with the concurrence of the Interim Finance Committee. The degree of fineness of the materials used must be clearly indicated on each medallion.

2. Medallions may be minted in weights of 1 ounce, 0.5 ounce, 0.25 ounce and 0.1 ounce.

3. Bars may be minted in weights of 1 ounce, 5 ounces, 10 ounces and 100 ounces.

4. Each medallion must bear on its obverse The Great Seal of the State of Nevada and on its reverse a design selected by the Director, in consultation with

the ~~{Executive}~~ Director of the Commission on Tourism, the Administrator of the Division of Museums and History of the Department of Cultural Affairs and the Administrator of the Division of Minerals of the Commission on Mineral Resources.

Sec. 12. NRS 408.210 is hereby amended to read as follows:

408.210 1. The Director may restrict the use of, or close, any highway whenever he considers the closing or restriction of use necessary:

(a) For the protection of the public.

(b) For the protection of such highway from damage during storms or during construction, reconstruction, improvement or maintenance operations thereon.

(c) To promote economic development or tourism in the best interest of the State or upon the written request of the Executive Director of the Commission on Economic Development or the *Director of the* Commission on Tourism.

2. The Director may:

(a) Divide or separate any highway into separate roadways, wherever there is particular danger to the traveling public of collisions between vehicles proceeding in opposite directions or from vehicular turning movements or cross-traffic, by constructing curbs, central dividing sections or other physical dividing lines, or by signs, marks or other devices in or on the highway appropriate to designate the dividing line.

(b) Lay out and construct frontage roads on and along any highway or freeway and divide and separate any such frontage road from the main highway or freeway by means of curbs, physical barriers or by other appropriate devices.

3. The Director may remove from the highways any unlicensed encroachment which is not removed, or the removal of which is not commenced and thereafter diligently prosecuted, within 5 days after personal service of notice and demand upon the owner of the encroachment or his agent. In lieu of personal service upon that person or his agent, service of the notice may also be made by registered or certified mail and by posting, for a period of 5 days, a copy of the notice on the encroachment described in the notice. Removal by the Department of the encroachment on the failure of the owner to comply with the notice and demand gives the Department a right of action to recover the expense of the removal, cost and expenses of suit, and in addition thereto the sum of \$100 for each day the encroachment remains beyond 5 days after the service of the notice and demand.

4. If the Director determines that the interests of the Department are not compromised by a proposed or existing encroachment, he may issue a license to the owner or his agent permitting an encroachment on the highway. Such a license is revocable and must provide for relocation or removal of the encroachment in the following manner. Upon notice from the Director to the owner of the encroachment or his agent, the owner or agent may propose a time within which he will relocate or remove the encroachment as required. If the Director and the owner or his agent agree upon such a time, the Director shall not himself remove the encroachment unless the owner or his agent has failed to do so within the time agreed. If the Director and the owner or his agent do not agree upon such a time, the Director may remove the encroachment at any time later than 30 days after the service of the original

notice upon the owner or his agent. Service of notice may be made in the manner provided by subsection 3. Removal of the encroachment by the Director gives the Department the right of action provided by subsection 3, but the penalty must be computed from the expiration of the agreed period or 30-day period, as the case may be.

Sec. 13. This act becomes effective on July 1, 2007.

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 101.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 195.

The following Senate amendment was read:

Amendment No. 737.

AN ACT relating to property; revising the provisions relating to the conversion of a common-interest community; **establishing provisions relating to a tenant's remedies under certain circumstances**; requiring a landlord to provide copies of written rental agreements; revising the provisions relating to the required disclosure of the names and addresses of managers and owners; providing that a dwelling unit is not habitable if it violates certain provisions of housing or health codes; revising provisions relating to the enforceability of an adopted rule or regulation governing a rental agreement; making changes to the provisions relating to a tenant's remedies under certain circumstances; making various other changes relating to residential landlords and tenants; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth certain requirements for notification of residential tenants and subtenants relating to the conversion of a common-interest community. (NRS 116.4112) Section 1 of this bill ~~establishes a rebuttable presumption of an intent by the owner to evade such notice requirements if a declaration of conversion is filed within 6 months after a tenant is evicted. Section 1 also provides that a tenant retains his right to receive an offer to convey the unit and to recover damages if he was unlawfully evicted before the declaration was filed.~~ **provides that if a majority of residential tenants or subtenants are required to vacate under certain circumstances, a rebuttable presumption is created that the owner intended to offer the vacated premises as units in a common-interest community.**

Existing law sets forth certain requirements relating to a written rental agreement. (NRS 118A.200) Section 2 of this bill requires a landlord to provide to the tenant one free copy of any written agreement entered into by the tenant and landlord. Section 2 also requires a landlord to provide additional copies of any such agreement upon request by the tenant within a reasonable time and for a reasonable fee.

Existing law requires a landlord to disclose the name and address of managers and owners and provides that service of process in any action may be made upon the manager of the property. (118A.260) Section 3 of this bill requires a landlord to provide an address in Nevada for a person authorized to act for and on behalf of the landlord for service of process. Section 3 also allows service of process to be made upon certain persons in addition to the manager. Section 4 of this bill provides that a dwelling unit is not habitable if it violates provisions of housing or health codes concerning the health, safety, sanitation or fitness for habitation of the dwelling unit. (NRS 118A.290)

Existing law provides that rules and regulations adopted after a tenant enters into a rental agreement are enforceable against the tenant under certain circumstances. (NRS 118A.320) Section 5 of this bill provides that the adoption of such rules or regulations does not affect the tenant's obligation to pay rent and other charges or the tenant's right under a rental agreement to keep a pet.

Existing law sets forth various remedies for a tenant when there is a breach of a rental agreement or a failure by the landlord to maintain the dwelling unit in a habitable condition and requires a tenant to give notice of such breach or failure to the landlord before the tenant may recover damages under certain circumstances. (NRS 118A.350, 118A.380) Sections 1.5 and 6 of this bill separate the provisions concerning a breach of a rental agreement from the provisions concerning a landlord's failure to maintain a dwelling unit in a habitable condition and allow a tenant to withhold rent when there is a breach if he gives notice of such breach to the landlord. Sections 1.5 ~~1.5~~ and 7 of this bill also allow a tenant to withhold rent without giving such notice if the landlord has received a notice of the condition constituting the breach or failure from a governmental agency and the landlord fails to remedy or attempt in good faith to remedy the breach or failure within a specified time. ~~[Section 6 further provides that a tenant's failure to give notice of a breach does not affect the tenant's ability to recover damages for a violation of the rental agreement.]~~ **In addition, section 1.5 requires justice courts to establish a mechanism by which tenants may deposit withheld rent into an escrow account. Section 1.5 further provides that a tenant has no defense to an eviction proceeding for withholding rent while awaiting a landlord's remedy or attempted remedy of a failure to maintain the dwelling unit in a habitable condition unless the tenant has deposited the withheld rent into the escrow account.**

Existing law provides that a tenant is guilty of an unlawful detainer if he suffers, permits or maintains on or about the premises any nuisance. (NRS 40.2514) Section 8 of this bill requires that such a nuisance must consist of conduct or an ongoing condition that obstructs the free use of property and causes injury and damage for the nuisance to evidence guilt of an unlawful detainer.

Section 9 of this bill makes a technical correction to an internal reference to a statute.

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

Section 1. NRS 116.4112 is hereby amended to read as follows:

116.4112 1. A declarant of a common-interest community containing converted buildings, and any dealer who intends to offer units in such a common-interest community, shall give each of the residential tenants and any residential subtenant in possession of a portion of a converted building notice of the conversion and provide those persons with the public offering statement no later than 120 days before the tenants and any subtenant in possession are required to vacate. The notice must set forth generally the rights of tenants and subtenants under this section and must be hand-delivered to the unit or mailed by prepaid United States mail to the tenant and subtenant at the address of the unit or any other mailing address provided by a tenant. No tenant or subtenant may be required to vacate upon less than 120 days' notice, except by reason of nonpayment of rent, waste or conduct that disturbs other tenants' peaceful enjoyment of the premises, and the terms of the tenancy may not be altered during that period. Failure to give notice as required by this section is a defense to an action for possession. *If, during the 6-month period before the recording of a declaration, a majority of the tenants or any subtenants in possession of any portion of the property described in such declaration has been required to vacate for reasons other than nonpayment of rent, waste or conduct that disturbs other tenants' peaceful enjoyment of the premises, a rebuttable presumption is created that the owner of such property intended to offer the vacated premises as units in a common-interest community at all times during that 6-month period.*

2. For 60 days after delivery or mailing of the notice described in subsection 1, the person required to give the notice shall offer to convey each unit or proposed unit occupied for residential use to the tenant who leases that unit. If a tenant fails to purchase the unit during that 60-day period, the offeror may not offer to dispose of an interest in that unit during the following 180 days at a price or on terms more favorable to the offeree than the price or terms offered to the tenant. This subsection does not apply to any unit in a converted building if that unit will be restricted exclusively to nonresidential use or the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion.

3. If a seller, in violation of subsection 2, conveys a unit to a purchaser for value who has no knowledge of the violation, the recordation of the deed conveying the unit or, in a cooperative, the conveyance of the unit, extinguishes any right a tenant may have under subsection 2 to purchase that unit if the deed states that the seller has complied with subsection 2, but the

conveyance does not affect the right of a tenant to recover damages from the seller for a violation of subsection 2.

4. If a notice of conversion specifies a date by which a unit or proposed unit must be vacated and otherwise complies with the provisions of NRS 40.251 and 40.280, the notice also constitutes a notice to vacate specified by those sections.

5. This section does not permit termination of a lease by a declarant in violation of its terms.

~~6. A purchaser shall not evade the provisions of this section by evicting a tenant other than for cause, including the nonpayment of rent, and subsequently recording a declaration pursuant to NRS 116.2101. A declaration that is filed within 6 months of removing a tenant pursuant to NRS 40.255 creates a rebuttable presumption of an intent to evade the provisions of this section which may only be overcome by clear and convincing evidence that the owner did not intend to convert at the time of the notice. A tenant evicted in violation of this subsection:~~

~~(a) Retains the right to receive an offer to convey the unit occupied by the tenant pursuant to subsection 2 for 60 days after the declaration; and~~

~~(b) May recover damages pursuant to NRS 116.4117.]~~

Sec. 1.5. Chapter 118A of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise provided in this chapter, if a landlord fails to maintain a dwelling unit in a habitable condition as required by this chapter, the tenant ~~may~~ shall deliver a written notice to the landlord specifying each failure by the landlord to maintain the dwelling unit in a habitable condition and requesting that the landlord remedy the failures. If a failure is remediable and the landlord adequately remedies the failure or uses his best efforts to remedy the failure within 14 days after receipt of the notice, the tenant may not proceed under this section. If the landlord fails to remedy a material failure to maintain the dwelling unit in a habitable condition or to make a reasonable effort to do so within the prescribed time, the tenant may:*

*(a) Terminate the rental agreement immediately.*

*(b) Recover actual damages.*

*(c) Apply to the court for such relief as the court deems proper under the circumstances.*

*(d) Withhold any rent that becomes due without incurring late fees, charges for notice or any other charge or fee authorized by this chapter or the rental agreement until the landlord has remedied, or has attempted in good faith to remedy, the failure.*

*2. The tenant may not proceed under this section:*

*(a) For a condition caused by his own deliberate or negligent act or omission or that of a member of his household or other person on the premises with his consent; or*



*(b) If the landlord's inability to adequately ~~fix~~ remedy the failure or use his best efforts to remedy the failure within 14 days is due to the tenant's refusal to allow lawful access to the dwelling unit as required by the rental agreement or this chapter.*

*3. If the rental agreement is terminated, the landlord shall return all prepaid rent and security recoverable by the tenant under this chapter.*

*4. A tenant may not proceed under this section unless he has given notice as required by subsection 1, except that the tenant may, without giving that notice:*

*(a) Recover damages under paragraph (b) of subsection 1 if the landlord:*

*(1) Admits to the court that he had knowledge of the condition constituting the failure to maintain the dwelling in a habitable condition; or*

*(2) Has received written notice of that condition from a governmental agency authorized to inspect for violations of building, housing or health codes.*

*(b) Withhold rent under paragraph (d) of subsection 1 if the landlord:*

*(1) Has received written notice of the condition constituting the failure to maintain the dwelling in a habitable condition from a governmental agency authorized to inspect for violations of building, housing or health codes; and*

*(2) Fails to remedy or attempt in good faith to remedy the failure within the time prescribed in the written notice of that condition from the governmental agency.*

*5. Justice courts shall establish by local rule a mechanism by which tenants may deposit rent withheld under paragraph (d) of subsection 1 into an escrow account maintained or approved by the court. A tenant does not have a defense to an eviction under paragraph (d) of subsection 1 unless the tenant has deposited the withheld rent into an escrow account pursuant to this subsection.*

Sec. 2. NRS 118A.200 is hereby amended to read as follows:

118A.200 1. Any written agreement for the use and occupancy of a dwelling unit or premises must be signed by the landlord or his agent and the tenant or his agent.

2. *The landlord shall provide one copy of any written agreement described in subsection 1 to the tenant free of cost at the time the agreement is executed and, upon request of the tenant, provide additional copies of any such agreement to the tenant within a reasonable time. The landlord may charge a reasonable fee for providing the additional copies.*

3. Any written rental agreement must contain, but is not limited to, provisions relating to the following subjects:

(a) Duration of the agreement.

(b) Amount of rent and the manner and time of its payment.

(c) Occupancy by children or pets.

- (d) Services included with the dwelling rental.
  - (e) Fees which are required and the purposes for which they are required.
  - (f) Deposits which are required and the conditions for their refund.
  - (g) Charges which may be required for late or partial payment of rent or for return of any dishonored check.
  - (h) Inspection rights of the landlord.
  - (i) A listing of persons or numbers of persons who are to occupy the dwelling.
  - (j) Respective responsibilities of the landlord and the tenant as to the payment of utility charges.
  - (k) A signed record of the inventory and condition of the premises under the exclusive custody and control of the tenant.
  - (l) A summary of the provisions of NRS 202.470.
  - (m) Information regarding the procedure pursuant to which a tenant may report to the appropriate authorities:
    - (1) A nuisance.
    - (2) A violation of a building, safety or health code or regulation.
  - (n) Information regarding the right of the tenant to engage in the display of the flag of the United States, as set forth in NRS 118A.325.
- ~~{3-}~~ **4.** The absence of a written agreement raises a disputable presumption that:
- (a) There are no restrictions on occupancy by children or pets.
  - (b) Maintenance and waste removal services are provided without charge to the tenant.
  - (c) No charges for partial or late payments of rent or for dishonored checks are paid by the tenant.
  - (d) Other than normal wear, the premises will be returned in the same condition as when the tenancy began.
- ~~{4-}~~ **5.** It is unlawful for a landlord or any person authorized to enter into a rental agreement on his behalf to use any written agreement which does not conform to the provisions of this section, and any provision in an agreement which contravenes the provisions of this section is void.
- Sec. 3. NRS 118A.260 is hereby amended to read as follows:
- 118A.260 1. The landlord, or any person authorized to enter into a rental agreement on his behalf, shall disclose to the tenant in writing at or before the commencement of the tenancy:
- (a) The name and address of:
    - (1) The persons authorized to manage the premises;
    - (2) A person *within this State* authorized to act for and on behalf of the landlord for the purpose of service of process and receiving notices and demands; and
    - (3) The principal or corporate owner.
  - (b) A telephone number at which a responsible person who resides in the county or within 60 miles of where the premises are located may be called in case of emergency.

2. The information required to be furnished by this section must be kept current, and this section is enforceable against any successor landlord or manager of the premises.

3. A party who enters into a rental agreement on behalf of the landlord and fails to comply with this section is an agent of the landlord for purposes of:

- (a) Service of process and receiving notices and demands; and
- (b) Performing the obligations of the landlord under law and under the rental agreement.

4. In any action against a landlord which involves his rental property, service of process upon the manager of the property ***or a person described in paragraph (a) of subsection 1*** shall be deemed to be service upon the landlord. The obligations of the landlord devolve upon the persons authorized to enter into a rental agreement on his behalf.

5. This section does not limit or remove the liability of an undisclosed landlord.

Sec. 4. NRS 118A.290 is hereby amended to read as follows:

118A.290 1. The landlord shall at all times during the tenancy maintain the dwelling unit in a habitable condition. A dwelling unit is not habitable ***if it violates provisions of housing or health codes concerning the health, safety, sanitation or fitness for habitation of the dwelling unit or*** if it substantially lacks:

- (a) Effective waterproofing and weather protection of the roof and exterior walls, including windows and doors.
- (b) Plumbing facilities which conformed to applicable law when installed and which are maintained in good working order.
- (c) A water supply approved under applicable law, which is:
  - (1) Under the control of the tenant or landlord and is capable of producing hot and cold running water;
  - (2) Furnished to appropriate fixtures; and
  - (3) Connected to a sewage disposal system approved under applicable law and maintained in good working order to the extent that the system can be controlled by the landlord.
- (d) Adequate heating facilities which conformed to applicable law when installed and are maintained in good working order.
- (e) Electrical lighting, outlets, wiring and electrical equipment which conformed to applicable law when installed and are maintained in good working order.
- (f) An adequate number of appropriate receptacles for garbage and rubbish in clean condition and good repair at the commencement of the tenancy. The landlord shall arrange for the removal of garbage and rubbish from the premises unless the parties by written agreement provide otherwise.
- (g) Building, grounds, appurtenances and all other areas under the landlord's control at the time of the commencement of the tenancy in every

part clean, sanitary and reasonably free from all accumulations of debris, filth, rubbish, garbage, rodents, insects and vermin.

(h) Floors, walls, ceilings, stairways and railings maintained in good repair.

(i) Ventilating, air-conditioning and other facilities and appliances, including elevators, maintained in good repair if supplied or required to be supplied by the landlord.

2. The landlord and tenant may agree that the tenant is to perform specified repairs, maintenance tasks and minor remodeling only if:

(a) The agreement of the parties is entered into in good faith; and

(b) The agreement does not diminish the obligations of the landlord to other tenants in the premises.

3. An agreement pursuant to subsection 2 is not entered into in good faith if the landlord has a duty under subsection 1 to perform the specified repairs, maintenance tasks or minor remodeling and the tenant enters into the agreement because the landlord or his agent has refused to perform them.

Sec. 5. NRS 118A.320 is hereby amended to read as follows:

118A.320 1. The landlord, from time to time, may adopt rules or regulations concerning the tenant's use and occupancy of the premises. Such a rule or regulation is enforceable against the tenant only if:

(a) Its purpose is to promote the convenience, safety or welfare of the landlord or tenants in the premises, preserve the landlord's property from abusive use or make a fair distribution of services and facilities held out for the tenants generally;

(b) It is reasonably related to the purpose for which it is adopted;

(c) It applies to all tenants in the premises in a fair manner;

(d) It is sufficiently explicit in its prohibition, direction or limitation of the tenant's conduct fairly to inform the tenant of what must or must not be done to comply;

(e) It is in good faith and not for the purpose of evading an obligation of the landlord; ~~and~~

(f) ***It does not affect the tenant's obligation to pay rent, utilities or other charges;***

(g) ***It does not affect, before the end of the duration of the rental agreement, any right the tenant may have under the rental agreement to keep a pet; and***

(h) The tenant has notice of the rule or regulation at the time he enters into the rental agreement or after the rule or regulation is adopted by the landlord.

2. A rule or regulation adopted after the tenant enters into the rental agreement which works a material modification of the bargain is enforceable against a tenant:

(a) Who expressly consents to ~~it~~ ***the rule or regulation*** in writing; or

(b) Who has 30 days' advance written notice of ~~it~~ ***the rule or regulation***.

Sec. 6. NRS 118A.350 is hereby amended to read as follows:

118A.350 1. Except as otherwise provided in this chapter, if the landlord fails to comply with the rental agreement, ~~for fails to maintain the dwelling unit in a habitable condition as required by this chapter,~~ the tenant shall deliver a written notice to the landlord specifying the acts and omissions constituting the breach and stating that the rental agreement will terminate as provided in this section. If the breach is remediable and the landlord adequately remedies the breach or uses his best efforts to remedy the breach within 14 days after receipt of the notice, the rental agreement does not terminate by reason of the breach. If the landlord fails to remedy the breach or make a reasonable effort to do so within the prescribed time, the tenant may:

- (a) Terminate the rental agreement immediately.
- (b) Recover actual damages.
- (c) Apply to the court for such relief as the court deems proper under the circumstances.

~~[(d) Withhold any rent that becomes due without incurring late fees, charges for notice or any other charge or fee authorized by this chapter or the rental agreement, until the landlord has attempted in good faith to remedy the breach.]~~

2. The tenant may not terminate *the rental agreement* for a condition caused by his own deliberate or negligent act or omission or that of a member of his household or other person on the premises with his consent.

3. If the rental agreement is terminated, the landlord shall return all prepaid rent and security recoverable by the tenant under this chapter.

4. A tenant may not proceed under this section unless he has given notice as required by subsection 1, except that the tenant may, without giving that notice, recover ~~re~~

~~(a) Recover~~ damages under paragraph (b) of subsection 1 if the landlord:

(a) ~~((1))~~ Admits to the court that he had knowledge of the condition constituting the breach; or

(b) ~~((2))~~ Has received written notice of that condition from a governmental agency authorized to inspect for violations of building, housing or health codes.

~~[(b) Withhold rent under paragraph (d) of subsection 1 if the landlord:~~

~~(1) Has received written notice of the condition constituting the breach from a governmental agency authorized to inspect for violations of building, housing or health codes; and~~

~~(2) Fails to remedy or attempt in good faith to remedy the breach within the time prescribed in the written notice of that condition from the governmental agency.~~

~~5. A tenant's failure to give notice as required by subsection 1 does not affect a tenant's ability to recover damages for a violation of the rental agreement.]~~

Sec. 7. NRS 118A.380 is hereby amended to read as follows:

118A.380 1. If the landlord is required by the rental agreement or this chapter to supply heat, air-conditioning, running water, hot water, electricity, gas, or another essential service and he willfully or negligently fails to do so, causing the premises to become unfit for habitation, the tenant shall give written notice to the landlord specifying the breach. If the landlord does not adequately remedy the breach, or use his best efforts to remedy the breach within 48 hours, except a Saturday, Sunday or legal holiday, after it is received by the landlord, the tenant may, in addition to any other remedy:

(a) Procure reasonable amounts of such essential services during the landlord's noncompliance and deduct their actual and reasonable cost from the rent;

(b) Recover actual damages, including damages based upon the lack of use of the premises or the diminution of the fair rental value of the dwelling unit;

(c) Withhold any rent that becomes due during the landlord's noncompliance without incurring late fees, charges for notice or any other charge or fee authorized by this chapter or the rental agreement, until the landlord has attempted in good faith to restore the essential services; or

(d) Procure other housing which is comparable during the landlord's noncompliance, and the rent for the original premises fully abates during this period. The tenant may recover the actual and reasonable cost of that other housing which is in excess of the amount of rent which is abated.

2. If the tenant proceeds under this section, he may not proceed under NRS 118A.350 and 118A.360 as to that breach.

3. The rights of the tenant under this section do not arise until he has given written notice as required by subsection 1, except that the tenant may, without having given that notice ~~{, recover}~~:

(a) **Recover** damages as authorized under paragraph (b) of subsection 1 if the landlord:

~~{(a)}~~ (1) Admits to the court that he had knowledge of the lack of such essential services; or

~~{(b)}~~ (2) Has received written notice of the uninhabitable condition caused by such a lack from a governmental agency authorized to inspect for violations of building, housing or health codes.

(b) **Withhold rent under paragraph (c) of subsection 1 if the landlord:**

(1) **Has received written notice of the condition constituting the breach from a governmental agency authorized to inspect for violations of building, housing or health codes; and**

(2) **Fails to remedy or attempt in good faith to remedy the breach within the time prescribed in the written notice of that condition from the governmental agency.**

4. The rights of the tenant under paragraph (c) of subsection 1 do not arise unless the tenant is current in the payment of rent at the time of giving written notice pursuant to subsection 1.

5. If such a condition was caused by the deliberate or negligent act or omission of the tenant, a member of his household or other person on the premises with his consent, the tenant has no rights under this section.

Sec. 8. NRS 40.2514 is hereby amended to read as follows:

40.2514 A tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when he:

1. Assigns or sublets the leased premises contrary to the covenants of the lease;

2. Commits or permits waste thereon;

3. Sets up or carries on therein or thereon any unlawful business;

4. Suffers, permits or maintains on or about the premises any nuisance ~~that~~ **that consists of conduct or an ongoing condition which constitutes an unreasonable obstruction to the free use of property and causes injury and damage to other tenants or occupants of that property or adjacent buildings or structures;** or

5. Violates any of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, therein or thereon,

↪ and remains in possession after service upon him of 3 days' notice to quit.

Sec. 9. NRS 40.280 is hereby amended to read as follows:

40.280 1. Except as otherwise provided in NRS 40.253, the notices required by NRS 40.251 to 40.260, inclusive, may be served:

(a) By delivering a copy to the tenant personally, in the presence of a witness;

(b) If he is absent from his place of residence or from his usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the tenant at his place of residence or place of business; or

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

2. Service upon a subtenant may be made in the same manner as provided in subsection 1.

3. Before an order to remove a tenant is issued pursuant to subsection ~~4~~ **5** of NRS 40.253, a landlord shall file with the court a proof of service of any notice required by that section. Except as otherwise provided in subsection 4, this proof must consist of:

(a) A statement, signed by the tenant and a witness, acknowledging that the tenant received the notice on a specified date;

(b) A certificate of mailing issued by the United States Postal Service; or

(c) The endorsement of a sheriff, constable or other process server stating the time and manner of service.

4. If service of the notice was not delivered in person to a tenant whose rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, proof of service must include:

- (a) A certificate of mailing issued by the United States Postal Service or by a private postal service to the landlord or his agent; or
- (b) The endorsement of a sheriff or constable stating the:
  - (1) Time and date the request for service was made by the landlord or his agent;
  - (2) Time, date and manner of the service; and
  - (3) Fees paid for the service.

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 195.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 216.

The following Senate amendment was read:

Amendment No. 738.

AN ACT relating to manufactured home parks; requiring a landlord who proposes to close or convert a manufactured home park to submit a resident impact statement ~~and~~ **under certain circumstances**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law describes the obligations that a landlord must meet when closing or converting a manufactured home park. (NRS 118B.177, 118B.180, 118B.183) Sections 1-4 of this bill add to those requirements by requiring the landlord to submit a resident impact statement ~~. Before beginning the process of closure or conversion.~~ Additionally, section 1 sets forth the requirements for a resident impact statement ~~and~~ **and the time for its submission. Section 1 also exempts a landlord who complies with local rules for converting or closing a manufactured home park if the local rules establish requirements concerning the disclosure of the impact on residents that are at least as stringent as the requirements of section 1.**

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

Section 1. Chapter 118B of NRS is hereby amended by adding thereto a new section to read as follows:

~~{Before}~~

**1. Except as otherwise provided in subsection 4, if a landlord begins the process of closing or converting a manufactured home park, he shall ~~first~~ submit a resident impact statement to the appropriate local zoning board, planning commission or governing body.**

**2. The landlord shall submit the resident impact statement before:**



(a) The appropriate local zoning board, planning commission or governing body makes a decision concerning the closure or conversion of the manufactured home park; or

(b) The conclusion of the process of closing or converting the manufactured home park,  
~~↪~~ whichever is earlier.

3. The resident impact statement must be in such form as the Division  
~~(shall prescribe)~~ prescribes by regulation and must include, without limitation, the following information:

~~1.1~~ (a) The addresses and corresponding manufactured home identification numbers of all tenants of the park;

~~1.2~~ (b) An analysis of replacement housing needs or requirements for the tenants; and

~~1.3~~ (c) An analysis of any sites to which the homes of the tenants may be moved.

4. The provisions of this section do not apply to a landlord who complies with the rules, regulations or procedures for the closure or conversion of a manufactured home park established by the appropriate local zoning board, planning commission or governing body which include requirements that are substantially similar to or more stringent than the requirements of this section.

Sec. 2. NRS 118B.177 is hereby amended to read as follows:

118B.177 1. If a landlord closes a manufactured home park, or if a landlord is forced to close a manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park permanently for health or safety reasons, the landlord shall pay the amount described in subsection 2 or 3, in accordance with the choice of the tenant.

2. If the tenant chooses to move the manufactured home, the landlord shall pay to the tenant:

(a) The cost of moving each tenant's manufactured home and its appurtenances to a new location within 50 miles from the manufactured home park; or

(b) If the new location is more than 50 miles from the manufactured home park, the cost of moving the manufactured home for the first 50 miles,  
~~↪~~ including fees for inspection, any deposits for connecting utilities, and the cost of taking down, moving, setting up and leveling the manufactured home and its appurtenances in the new lot or park.

3. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged ~~1.1~~ or there is no manufactured home park within 50 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home less the reasonable cost of removing and disposing of the manufactured home.

4. Written notice of any closure must be served timely on each:

(a) Tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot.

(b) Prospective tenant by:

(1) Handing each prospective tenant or his agent a copy of the written notice; and

(2) Maintaining a copy of the written notice at the entrance of the manufactured home park.

5. For the purposes of this section, the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home must be determined by:

(a) A dealer licensed pursuant to chapter 489 of NRS who is agreed upon by the landlord and tenant; or

(b) If the landlord and tenant cannot agree pursuant to paragraph (a), a dealer licensed pursuant to chapter 489 of NRS who is selected for this purpose by the Division.

6. A landlord shall not increase the rent of a tenant after notice is served on the tenant as required by subsection 4.

7. ~~Before~~ **If a landlord ~~(may begin)~~ begins the process of closing a manufactured home park, he shall ~~(submit)~~ comply with the provisions of section 1 of this act concerning the submission of a resident impact statement . ~~(pursuant to section 1 of this act.)~~**

8. As used in this section, "timely" means not later than 3 days after the landlord learns of a closure.

Sec. 3. NRS 118B.180 is hereby amended to read as follows:

118B.180 1. A landlord may convert an existing manufactured home park into individual manufactured home lots for sale to manufactured home owners if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.

2. The landlord may undertake a conversion pursuant to this section only if:

(a) The landlord gives notice in writing to each tenant within 5 days after he files his application for the change in land use with the local zoning board, planning commission or governing body;

(b) The landlord offers, in writing, to sell the lot to the tenant at the same price the lot will be offered to the public and holds that offer open for at least

90 days or until the landlord receives a written rejection of the offer from the tenant, whichever occurs earlier;

(c) The landlord does not sell the lot to a person other than the tenant for 90 days after the termination of the offer required pursuant to paragraph (b) at a price or on terms that are more favorable than the price or terms offered to the tenant;

(d) If a tenant does not exercise his option to purchase the lot pursuant to paragraph (b), the landlord pays:

(1) The cost of moving the tenant's manufactured home and its appurtenances to a comparable location within 50 miles from the manufactured home park; or

(2) If the new location is more than 50 miles from the manufactured home park, the cost of moving the manufactured home for the first 50 miles, including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park; ~~and~~

(e) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, notice in writing is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot ~~[-]~~; *and*

(f) ~~[Before he begins the process of converting a manufactured home park, the]~~ **The landlord ~~[submits]~~ complies with the provisions of section 1 of this act concerning the submission of a resident impact statement .** ~~[pursuant to section 1 of this act.]~~

3. Notice sent pursuant to paragraph (a) of subsection 2 or an offer to sell a manufactured home lot to a tenant required pursuant to paragraph (b) of subsection 2 does not constitute notice of termination of the tenancy.

4. Upon the sale of a manufactured home lot and a manufactured home which is situated on that lot, the landlord shall indicate what portion of the purchase price is for the manufactured home lot and what portion is for the manufactured home.

5. The provisions of this section do not apply to a corporate cooperative park.

Sec. 4. NRS 118B.183 is hereby amended to read as follows:

118B.183 1. A landlord may convert an existing manufactured home park to any other use of the land if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.

2. The landlord may undertake a conversion pursuant to this section only if:

(a) The landlord gives notice in writing to each tenant within 5 days after he files his application for the change in land use with the local zoning board, planning commission or governing body;

(b) The landlord pays the amount described in subsection 3 or 4, in accordance with the choice of the tenant; ~~and~~

(c) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, written notice is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot ~~[-]~~; *and*

(d) ~~Before he begins the process of converting a manufactured home park, the~~ **The landlord ~~submits~~ complies with the provisions of section 1 of this act concerning the submission of a resident impact statement .** ~~pursuant to section 1 of this act.~~

3. If the tenant chooses to move the manufactured home, the landlord shall pay to the tenant:

(a) The cost of moving the tenant's manufactured home and its appurtenances to a new location within 50 miles from the manufactured home park; or

(b) If the new location is more than 50 miles from the manufactured home park, the cost of moving the manufactured home for the first 50 miles, including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park.

4. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged ~~[-]~~ or there is no manufactured home park within 50 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home less the reasonable cost of removing and disposing of the manufactured home.

5. A landlord shall not increase the rent of any tenant:

(a) For 180 days before filing an application for a change in land use, permit or variance affecting the manufactured home park; or

(b) At any time after filing an application for a change in land use, permit or variance affecting the manufactured home park unless:

(1) The landlord withdraws the application or the appropriate local zoning board, planning commission or governing body denies the application; and

(2) The landlord continues to operate the manufactured home park after the withdrawal or denial.

6. For the purposes of this section, the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home must be determined by:

(a) A dealer licensed pursuant to chapter 489 of NRS who is agreed upon by the landlord and tenant; or

(b) If the landlord and tenant cannot agree pursuant to paragraph (a), a dealer licensed pursuant to chapter 489 of NRS who is selected for this purpose by the Division.

7. The provisions of this section do not apply to a corporate cooperative park.

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 216.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 249.

The following Senate amendment was read:

Amendment No. 773.

AN ACT relating to dispensing opticians; requiring the Board of Dispensing Opticians to adopt minimum standards for eyewear and certain devices dispensed by a dispensing optician; authorizing any member of the Board to issue subpoenas to compel the production of books, papers and documents; revising provisions governing the reinstatement of an expired license or limited license; authorizing the Board to impose an administrative fine against a person who engages in ophthalmic dispensing without a license; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Board of Dispensing Opticians to regulate the practice of ophthalmic dispensing. (Chapter 637 of NRS) Section 1.3 of this bill requires the Board to adopt minimum standards for eyewear and certain optical and ophthalmic devices dispensed by a dispensing optician. The standards must be consistent with the minimum standards of quality approved by the American National Standards Institute. Section 6 of this bill provides that a dispensing optician may be disciplined by the Board for dispensing, without proper verification, such eyewear or devices that do not meet the minimum standards adopted by the Board. Section 1.7 of this bill provides that the expiration date of a prescription which is received by a dispensing optician is 2 years after the date the prescription was issued unless **the practitioner who wrote the prescription indicates a [shorter] different period . [is indicated for a specific patient.]**

Existing law authorizes any member of the Board to issue subpoenas to compel the attendance of a witness to testify before the Board. (NRS 637.040) Section 2 of this bill authorizes any member of the Board to issue subpoenas to compel the production of books, papers and documents.

Existing law authorizes the Board to renew an expired license or limited license to practice ophthalmic dispensing. (NRS 637.121, 637.140) Sections 3 and 5 of this bill provide that the Board may only renew an expired license

or limited license if the license or limited license has been expired for 2 years or less.

Existing law authorizes the Board to issue a cease and desist order to a person practicing ophthalmic dispensing without a license. If the person does not comply with the cease and desist order within 30 days, the Board shall impose an administrative fine of up to \$10,000 against the person. (NRS 637.181) Section 7 of this bill authorizes the Board to impose an administrative fine against a person practicing ophthalmic dispensing without a license without regard to whether or not the person failed to comply with a cease and desist order.

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

Section 1. Chapter 637 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.7 of this act.

Sec. 1.3. **1. *The Board shall adopt regulations setting forth minimum standards for lenses, frames, specially fabricated optical devices and other ophthalmic devices dispensed by a person licensed as a dispensing optician.***

**2. *The standards adopted by the Board must be consistent with the minimum standards of quality approved by the American National Standards Institute.***

Sec. 1.7. ***A prescription received by a dispensing optician shall be deemed to have an expiration date of 2 years after the date the prescription was issued unless the practitioner who wrote the prescription includes on the prescription ~~that a shorter period is required for the specific patient.~~ a different period.***

Sec. 2. NRS 637.040 is hereby amended to read as follows:

637.040 1. The Board shall elect a President, Vice President, Secretary and Treasurer from its membership.

2. Any member of the Board may:

(a) Issue subpoenas to compel ***the*** attendance of witnesses to testify before the Board ~~[-] or the production of books, papers and documents~~. Subpoenas must issue under the seal of the Board and must be served in the same manner as subpoenas issued out of the district court.

(b) Administer oaths in taking testimony in any matter pertaining to the duties of the Board.

Sec. 3. NRS 637.121 is hereby amended to read as follows:

637.121 1. Except as otherwise provided in this section, a limited license as a dispensing optician authorizes the licensee to engage in the practice of ophthalmic dispensing pursuant to this chapter.

2. Only a person who is deemed to hold an active, inactive or delinquent limited license as a dispensing optician on February 1, 2004, may hold a limited license as a dispensing optician. A limited license as a dispensing optician may not be issued to any other person.

3. A person practicing ophthalmic dispensing pursuant to a limited license:

(a) Except as otherwise provided in this section, is subject to the provisions of this chapter in the same manner as a person practicing ophthalmic dispensing pursuant to a license issued pursuant to NRS 637.120, including, without limitation, the provisions of this chapter governing the renewal or reactivation of a license; and

(b) Shall not sell, furnish or fit contact lenses.

4. A limited license as a dispensing optician:

(a) Expires on January 31 of each year.

(b) May be renewed before its expiration upon:

(1) Presentation of proof of completion of the continuing education required by this section; and

(2) Payment of a renewal fee set by the Board of not more than \$200.

(c) Except as otherwise provided in subsection 5, is delinquent if it is not renewed before January 31 of each year. ~~[Such]~~ **Not later than 2 years after the expiration of a limited license**, a delinquent limited license may be reinstated, at the discretion of the Board, upon payment of each applicable annual renewal fee in addition to the annual delinquency fee set by the Board of not more than \$500.

5. Upon written request to the Board, and payment of a fee not to exceed \$300, a licensee in good standing may have his name and limited license as a dispensing optician transferred to an inactive list. Such a licensee shall not practice ophthalmic dispensing during the time the limited license is inactive. If an inactive licensee ~~[desires]~~ **wishes** to resume the practice of ophthalmic dispensing as limited by this section, the Board shall reactivate the limited license upon:

(a) If deemed necessary by the Board, the demonstration by the licensee that the licensee is then qualified and competent to practice;

(b) The completion of an application; and

(c) Payment of the renewal fee set by the Board pursuant to subsection 4.

6. To reactivate a limited license as a dispensing optician pursuant to subsection 5, an inactive licensee is not required to pay the delinquency fee and the renewal fee for any year while the license was inactive.

7. Except as otherwise provided in subsection 8, each person with a limited license as a dispensing optician must complete courses of continuing education in ophthalmic dispensing each year. Such continuing education must:

(a) Encompass such subjects as are established by regulations of the Board.

(b) Consist of a minimum of 12 hours for a period of 12 months.

8. A person with a limited license as a dispensing optician who is on active military service is exempt from the requirements of subsection 7.

9. The Board shall adopt any **other** regulations **it determines are** necessary to carry out the provisions of this section.

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 637.140 is hereby amended to read as follows:

637.140 1. A license as a dispensing optician issued under the provisions of this chapter expires on January 31 of each year.

2. A license may be renewed before its expiration upon:

(a) Presentation of proof of completion of the continuing education required by NRS 637.135; and

(b) Payment of a renewal fee set by the Board of not more than \$500.

3. Except as otherwise provided in subsection 4, any license which is not renewed before January 31 of each year shall be deemed delinquent. ~~{A}~~ ***Not later than 2 years after the expiration of a license, a*** delinquent license may be reinstated, at the discretion of the Board, upon payment of each applicable annual renewal fee in addition to the annual delinquency fee set by the Board of not more than \$500.

4. Upon written request to the Board, and payment of a fee not to exceed \$300, a licensee in good standing may have his name and license transferred to an inactive list. Such a licensee shall not practice ophthalmic dispensing during the time the license is inactive. If an inactive licensee desires to resume the practice of ophthalmic dispensing, the Board shall reactivate the license upon the:

(a) Demonstration, if deemed necessary by the Board, that the licensee is then qualified and competent to practice;

(b) Completion of an application; and

(c) Payment of the renewal fee set by the Board pursuant to subsection 2.

↪ Payment of the delinquency fee and the renewal fee for any year while the license was inactive is not required.

Sec. 6. NRS 637.150 is hereby amended to read as follows:

637.150 1. Upon proof by substantial evidence that an applicant or holder of a license:

(a) Has been adjudicated insane;

(b) Habitually uses any controlled substance or intoxicant;

(c) Has been convicted of a crime involving moral turpitude;

(d) Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(e) Has advertised in any manner which would tend to deceive, defraud or mislead the public;

(f) Has presented to the Board any diploma, license or certificate that has been signed or issued unlawfully or under fraudulent representations, or obtains or has obtained a license to practice in the State through fraud of any kind;

(g) Has been convicted of a violation of any federal or state law relating to a controlled substance;

(h) ***Has, without proper verification, dispensed a lens, frame, specially fabricated optical device or other ophthalmic device that does not satisfy***



*the minimum standards established by the Board pursuant to section 1.3 of this act;*

- (i) Has violated any regulation of the Board;
- ~~{(i)}~~ (j) Has violated any provision of this chapter;
- ~~{(j)}~~ (k) Is incompetent;
- ~~{(k)}~~ (l) Is guilty of unethical or unprofessional conduct as determined by the Board;
- ~~{(l)}~~ (m) Is guilty of repeated malpractice, which may be evidenced by claims of malpractice settled against a practitioner; or
- ~~{(m)}~~ (n) Is guilty of a fraudulent or deceptive practice as determined by the Board,

↪ the Board may, in the case of an applicant, refuse to grant him a license, or may, in the case of a holder of a license, place him on probation, reprimand him publicly, require him to pay an administrative fine of not more than \$10,000, suspend or revoke his license, or take any combination of these disciplinary actions.

2. The Board shall not privately reprimand a holder of a license.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 7. NRS 637.181 is hereby amended to read as follows:

637.181 Notwithstanding the provisions of chapter 622A of NRS:

1. The Board shall conduct an investigation if it receives a complaint that sets forth reason to believe that a person, without the proper license, is engaging in an activity for which a license is required pursuant to this chapter. The complaint must be:

- (a) Made in writing; and
- (b) Signed and verified by the person filing the complaint.

2. If the Board determines that a person, without the proper license, is engaging in an activity for which a license is required pursuant to this chapter, the Board ~~{shall}~~:

(a) **Shall** issue and serve on the person an order to cease and desist *from* engaging in the activity until such time as the person obtains the proper license from the Board.

~~{3.—If a person upon whom an order to cease and desist is served does not comply with the order within 30 days after service, the Board shall.}~~

(b) **May**, after notice and opportunity for a hearing, impose upon the person an administrative fine of not more than \$10,000. The imposition of an administrative fine is a final decision for the purposes of judicial review.

~~{4.}~~ 3. An administrative fine imposed pursuant to this section is in addition to any other penalty provided in this chapter.

Sec. 8. NRS 637.190 is hereby amended to read as follows:

637.190 1. The district court in the county in which any hearing is being conducted by the Board may compel the attendance of witnesses, the giving of testimony and the production of books, ~~{and}~~ papers **or documents** as required by any subpoena issued by the Board.

2. If any witness refuses to attend or testify or produce any **books**, papers **or documents** required by such **a** subpoena, the Board may report to the district court for the county in which the hearing is pending by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books ~~and papers~~, **papers or documents**;

(b) That the witness has been subpoenaed in the manner prescribed in NRS 637.040; and

(c) That the witness has failed and refused to attend or produce the **books**, papers **or documents** required by subpoena before the Board in the hearing named in the subpoena, or has refused to answer questions propounded to him in the course of ~~such~~ **the** hearing,

↪ and asking an order of the court compelling the witness to attend and testify or produce the books, ~~or~~ papers **or documents** before the Board.

3. The court, upon petition of the Board, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in ~~such~~ **the** order, the time to be not more than 10 days ~~from~~ **after** the date of the order, and then and there show cause why he has not attended or testified or produced the books, ~~or~~ papers **or documents** before the Board. A certified copy of the order must be served upon the witness. If it appears to the court that the subpoena was regularly issued by the Board, the court may thereupon enter an order that the witness appear before the Board at the time and place fixed in the order and testify or produce the required books ~~or papers~~, **papers or documents** and upon failure to obey the order the witness shall be dealt with as for contempt of court.

Sec. 9. This act becomes effective on July 1, 2007.

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 249.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 478.

The following Senate amendment was read:

Amendment No. 856.

AN ACT relating to financial services; making the provisions governing certain short-term loan services applicable to any person who makes a loan pursuant to a loan agreement that charges in excess of a certain annual percentage rate regardless of the term of the loan; revising the calculation of the annual percentage rate to include certain charges and fees imposed on a customer by a licensee; revising the allowable term of certain loans; providing exemptions from certain statutory provisions; clarifying the applicability of certain provisions; making persons who violate certain

provisions of federal law subject to certain remedies and penalties set forth in state law; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes standards and procedures for the licensing and regulation of loans made pursuant to loan agreements that provide for an annual percentage rate of more than 40 percent and require repayment of the loan in less than 1 year. (Chapter 604A of NRS) This bill revises the applicability of those standards and procedures to make them applicable to any person who makes a loan pursuant to a loan agreement that charges an annual percentage rate of more than 40 percent regardless of the term of the loan. This bill redefines such a loan as a "high-interest loan" and the loan service for such a loan as a "high-interest loan service." This bill also provides that, subject to certain exceptions, the original term of a deferred deposit loan ~~[must not exceed 35 days and the original term of a]~~ or high-interest loan must not exceed ~~[30]~~ 35 days.

Under existing law, the annual percentage rate of such loans is required to be calculated pursuant to the provisions of the Truth in Lending Act and Regulation Z. (NRS 604A.150) This bill provides an exception to that requirement by specifying that, subject to certain exceptions, every charge or fee, regardless of the name given to the charge or fee, payable directly or indirectly by the customer and imposed directly or indirectly by the lender must be included in calculating the annual percentage rate.

Existing law provides for the licensure of persons who make installment loans. (Chapter 675 of NRS) This bill provides for the licensure of such persons pursuant to chapter 604A of NRS if the loans are high-interest loans.

Existing law exempts certain persons and entities from the provisions of chapter 604A of NRS. (NRS 604A.250) This bill extends the exemption to national banking associations and their affiliates and subsidiaries, unless a purpose of the affiliation is to evade the provisions of that chapter.

Existing law exempts certain persons and entities from the provisions of chapter 675 of NRS. (NRS 675.040) This bill extends the exemption to national banking associations. This bill also clarifies the persons to whom chapter 675 of NRS applies.

Existing federal law imposes limitations on the terms of consumer credit that is extended to members of the Armed Forces of the United States who are on active duty and their dependents, including, without limitation, a prohibition against a lender imposing an interest rate greater than 36 percent. The federal law preempts any state law that is inconsistent with the federal law. (Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364) This bill provides that any violation of the federal law shall be deemed to be a violation of chapter 604A of NRS, thereby making violators subject to the remedies and penalties set forth in that chapter, including the imposition of an administrative fine of not more than \$10,000 for each violation, the revocation or suspension of a license

issued pursuant to that chapter and civil actions for damages. (NRS 604A.820, 604A.930)

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

Section 1. Chapter 604A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~6~~ 6.5, inclusive, of this act.

Sec. 2. 1. *"High-interest loan" means a loan made to a customer pursuant to a loan agreement which, under its original terms, charges an annual percentage rate of more than 40 percent.*

2. *The term includes, without limitation, any single-payment loan, installment loan or open-ended loan which, under its original terms, charges an annual percentage rate of more than 40 percent.*

3. *The term does not include:*

(a) *A deferred deposit loan;*

(b) *A refund anticipation loan; or*

(c) *A title loan.*

Sec. 3. *"High-interest loan service" means any person engaged in the business of providing high-interest loans for a fee, service charge or other consideration.*

Sec. 4. 1. *Except as otherwise provided in this section, for the purposes of determining whether a loan is a high-interest loan, when determining whether a lender is charging an annual percentage rate of more than 40 percent, calculations must be made in accordance with the Truth in Lending Act and Regulation Z, except that every charge or fee, regardless of the name given to the charge or fee, payable directly or indirectly by the customer and imposed directly or indirectly by the lender must be included in calculating the annual percentage rate, including, without limitation:*

(a) *Interest;*

(b) *Application fees, regardless of whether such fees are charged to all applicants or credit is actually extended;*

(c) *Fees charged for participation in a credit plan, whether assessed on an annual, periodic or nonperiodic basis; and*

(d) *Prepaid finance charges.*

2. *The following charges and fees must be excluded from the calculation of the annual percentage rate pursuant to subsection 1:*

(a) *Any fees allowed pursuant to NRS 604A.490 or 675.365 for a check not paid upon presentment or an electronic transfer of money that fails;*

(b) *Interest accrued after default pursuant to paragraph (c) of subsection 1 of NRS 604A.485; ~~and~~*

(c) *Charges for an unanticipated late payment, exceeding a credit limit, or a delinquency, default or similar occurrence ~~+~~; and*

(d) Any premiums or identifiable charges for insurance permitted pursuant to NRS 675.300.

3. *Calculation of the annual percentage rate in the manner specified in this section is limited only to the determination of whether a loan is a high-interest loan and must not be used in compliance with the disclosure requirements of paragraph (g) of subsection 2 of NRS 604A.410 or any other provisions of this chapter requiring disclosure of an annual percentage rate in the making of a loan.*

Sec. 5. 1. *Except as otherwise provided in this chapter, the original term of a ~~term~~*

~~(a) Deferred~~ deferred deposit loan or high-interest loan must not exceed 35 days.

~~† (b) High-interest loan must not exceed 30 days.~~

2. *The original term of a high-interest loan may be up to 90 days if:*

(a) *The loan provides for payments in installments;*

(b) *The payments are calculated to ratably and fully amortize the entire amount of principal and interest payable on the loan;*

(c) *The loan is not subject to any extension; and*

(d) *The loan does not require a balloon payment of any kind.*

3. *Notwithstanding the provisions of NRS 604A.480, a licensee shall not agree to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding deferred deposit loan or high-interest loan for a period that exceeds 90 days after the date of origination of the loan.*

Sec. 6. *A violation of any provision of section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation adopted pursuant thereto shall be deemed to be a violation of this chapter.*

Sec. 6.5. All provisions of this chapter governing enforcement or collection of an obligation originated under this chapter apply to:

1. Any purchaser or assignee of the obligation; and

2. Any person seeking to enforce or collect the obligation on behalf of a licensee.

Sec. 7. NRS 604A.010 is hereby amended to read as follows:

604A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 604A.015 to 604A.125, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 8. NRS 604A.015 is hereby amended to read as follows:

604A.015 1. "Automated loan machine" means any machine or other device, regardless of the name given to it or the technology used, that:

(a) Is automated;

(b) Is designed or intended to allow a customer, without any additional assistance from another person, to receive or attempt to receive a deferred deposit loan or ~~short-term~~ **high-interest** loan through the machine or other device; and

(c) Is set up, installed, operated or maintained by or on behalf of the person making the loan or any agent, affiliate or subsidiary of the person.

2. The term does not include any machine or other device used directly by a customer to access the Internet unless the machine or other device is made available to the customer by the person making the loan or any agent, affiliate or subsidiary of the person.

Sec. 9. NRS 604A.040 is hereby amended to read as follows:

604A.040 "Customer" means any person who receives or attempts to receive check-cashing services, deferred deposit loan services, ~~short-term~~ **high-interest** loan services or title loan services from another person.

Sec. 10. NRS 604A.075 is hereby amended to read as follows:

604A.075 "Licensee" means any person who has been issued one or more licenses to operate a check-cashing service, deferred deposit loan service, ~~short-term~~ **high-interest** loan service or title loan service pursuant to the provisions of this chapter.

Sec. 11. NRS 604A.080 is hereby amended to read as follows:

604A.080 "Loan" means any deferred deposit loan, ~~short-term~~ **high-interest** loan or title loan, or any extension or repayment plan relating to such a loan, made at any location or through any method, including, without limitation, at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means.

Sec. 11.5. NRS 604A.105 is hereby amended to read as follows:

604A.105 1. "Title loan" means a loan made to a customer pursuant to a loan agreement which, under its original terms:

(a) Charges an annual percentage rate of more than 35 percent; and

(b) Requires the customer to secure the loan by ~~giving~~ **either:**

(1) **Giving** possession of the title to a vehicle legally owned by the customer to the ~~person making the loan, or to~~ **licensee or** any agent, affiliate or subsidiary of the ~~person, whether or not the person making the loan or taking possession of the title perfects a security interest in the vehicle by having the person's name noted on the title as a lienholder.~~ **licensee; or**

(2) **Perfecting a security interest in the vehicle by having the name of the licensee or any agent, affiliate or subsidiary of the licensee noted on the title as a lienholder.**

2. The term does not include ~~the~~

~~(a) A~~ **a** loan which creates a purchase-money security interest in a vehicle or the refinancing of any such loan. ~~the~~

~~(b) Any other loan for which a vehicle is used as security or collateral if the person making the loan, or any agent, affiliate or subsidiary of the person, does not take possession of the title.~~

Sec. 12. NRS 604A.200 is hereby amended to read as follows:

604A.200 ~~The~~ **Notwithstanding any provision of NRS 604A.500, the** provisions of this chapter apply to any person who seeks to evade its

application by any device, subterfuge or pretense, including, without limitation ~~[-calling]~~:

1. **Calling** a loan by any other name ~~[-or using]~~;
2. **Using** any agents, affiliates or subsidiaries in an attempt to avoid the application of the provisions of this chapter ~~[-]~~; **or**
3. **Having any affiliation or other business arrangement with an entity that is exempt from the provisions of this chapter pursuant to subsection 1 of NRS 604A.250, the effect of which is to evade the provisions of this chapter, including, without limitation, making a loan while purporting to be the agent of such an exempt entity where the purported agent holds, acquires or maintains a ~~[-material]~~ preponderant economic interest in the revenues generated by the loan.**

Sec. 13. NRS 604A.250 is hereby amended to read as follows:

604A.250 The provisions of this chapter do not apply to:

1. ~~[-A]~~ **Except as otherwise provided in NRS 604A.200, a** person doing business pursuant to the authority of any law of this State or of the United States relating to banks, ***national banking associations***, savings banks, trust companies, savings and loan associations, credit unions, development corporations, mortgage brokers, mortgage bankers, thrift companies or insurance companies ~~[-]~~, ***including, without limitation, any affiliate or subsidiary of such a person regardless of whether the affiliate or subsidiary is a bank.***

2. A person who is primarily engaged in the retail sale of goods or services who:

(a) As an incident to or independently of a retail sale or service, from time to time cashes checks for a fee or other consideration of not more than \$2; and

(b) Does not hold himself out as a check-cashing service.

3. A person while performing any act authorized by a license issued pursuant to chapter 671 of NRS.

4. A person who holds a nonrestricted gaming license issued pursuant to chapter 463 of NRS while performing any act in the course of that licensed operation.

5. A person who is exclusively engaged in a check-cashing service relating to out-of-state checks.

6. A corporation organized pursuant to the laws of this State that has been continuously and exclusively engaged in a check-cashing service in this State since July 1, 1973.

7. A pawnbroker, unless the pawnbroker operates a check-cashing service, deferred deposit loan service, ~~[-short term]~~ ***high-interest*** loan service or title loan service.

8. A real estate investment trust, as defined in 26 U.S.C. § 856.

9. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

10. An attorney at law rendering services in the performance of his duties as an attorney at law if the loan is secured by real property.

11. A real estate broker rendering services in the performance of his duties as a real estate broker if the loan is secured by real property.

12. Any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

13. A person who provides money for investment in loans secured by a lien on real property, on his own account.

14. A seller of real property who offers credit secured by a mortgage of the property sold.

15. A person who makes a refund anticipation loan, unless the person operates a check-cashing service, deferred deposit loan service, ~~short-term~~ **high-interest** loan service or title loan service.

Sec. 14. NRS 604A.400 is hereby amended to read as follows:

604A.400 1. A person, including, without limitation, a person licensed pursuant to chapter 675 of NRS, shall not operate a check-cashing service, deferred deposit loan service, ~~short-term~~ **high-interest** loan service or title loan service unless the person is licensed with the Commissioner pursuant to the provisions of this chapter.

2. A person must have a license regardless of the location or method that the person uses to operate such a service, including, without limitation, at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except that the person shall not operate such a service through any automated loan machine in violation of the provisions of subsection 3.

3. A person shall not operate a deferred deposit loan service or ~~short-term~~ **high-interest** loan service through any automated loan machine, and the Commissioner shall not issue a license that authorizes the licensee to conduct business through any automated loan machine.

4. Any person, and any member, officer, director, agent or employee thereof, who violates or participates in the violation of any provision of this section is guilty of a misdemeanor.

Sec. 15. NRS 604A.405 is hereby amended to read as follows:

604A.405 1. A licensee shall post in a conspicuous place in every location at which he conducts business under his license:

(a) A notice that states the fees he charges for providing check-cashing services, deferred deposit loan services, ~~short-term~~ **high-interest** loan services or title loan services.



(b) A notice that states a toll-free telephone number to the Office of the Commissioner to handle concerns or complaints of customers.

↪ The Commissioner shall adopt regulations prescribing the form and size of the notices required by this subsection.

2. If a licensee offers loans to customers at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except for an automated loan machine prohibited by NRS 604A.400, the licensee shall, as appropriate to the location or method for making the loan, post in a conspicuous place where customers will see it before they enter into a loan, or disclose in an open and obvious manner to customers before they enter into a loan, a notice that states:

(a) The types of loans the licensee offers and the fees he charges for making each type of loan; and

(b) A list of the states where the licensee is licensed or authorized to conduct business from outside this State with customers located in this State.

3. A licensee who provides check-cashing services shall give written notice to each customer of the fees he charges for cashing checks. The customer must sign the notice before the licensee provides the check-cashing service.

Sec. 15.5. NRS 604A.410 is hereby amended to read as follows:

604A.410 1. Before making any loan to a customer, a licensee shall provide to the customer a written loan agreement which may be kept by the customer and which must be written in:

(a) English, if the transaction is conducted in English; or

(b) Spanish, if the transaction is conducted in Spanish.

2. The loan agreement must include, without limitation, the following information:

(a) The name and address of the licensee and the customer;

(b) The nature of the security for the loan, if any;

(c) The date and amount of the loan, amount financed, annual percentage rate, finance charge, total of payments, payment schedule and a description and the amount of every fee charged, regardless of the name given to the fee and regardless of whether the fee is required to be included in the finance charge under the Truth in Lending Act and Regulation Z;

(d) A disclosure of the right of the customer to rescind a loan pursuant to the provisions of this chapter;

(e) A disclosure of the right of the customer to pay his loan in full or in part with no additional charge pursuant to the provisions of this chapter;

(f) A disclosure stating that, if the customer defaults on the loan, the ~~customer has the opportunity within 30 days of the date of default to enter into a repayment plan with a term of at least 90 days, and that the~~ licensee must offer ~~the~~ a repayment plan to the customer before the licensee ~~sells or assigns the debt or~~ commences any civil action or process of alternative

dispute resolution or, if appropriate for the loan, before the licensee repossesses a vehicle; and

(g) Any other disclosures required under the Truth in Lending Act and Regulation Z or under any other applicable federal or state statute or regulation.

Sec. 16. NRS 604A.420 is hereby amended to read as follows:

604A.420 1. If a customer is ~~called to active duty in~~ **a member of** the military, a licensee shall:

(a) ~~Defer for the duration of the active duty all collection activity against the customer and his property, including, without limitation, any community property in which the customer has an interest; and~~

~~(b)~~ Honor the terms of any repayment plan between the licensee and customer, including, without limitation, any repayment plan negotiated through military counselors or third-party credit counselors.

**(b) Honor any proclamation by a base commander that a certain branch location of the licensee is off-limits to members of the military and their spouses.**

2. ~~When collecting any defaulted loan,~~ **If a customer is a member of the military,** a licensee shall not:

(a) Garnish or threaten to garnish any wages or salary ~~paid to a customer for active service in the military;~~ **of the customer or his spouse;** or

(b) Contact or threaten to contact the military chain of command of a customer in an effort to collect the ~~defaulted~~ loan.

3. **If a customer is a member of the military and is deployed to a combat or combat supporting position, a licensee shall not engage in any collection activity against the customer or his spouse.**

4. As used in this section, "military" means the Armed Forces of the United States, a reserve component thereof or the National Guard.

Sec. 17. NRS 604A.425 is hereby amended to read as follows:

604A.425 1. A licensee shall not:

(a) Make a deferred deposit loan that exceeds 25 percent of the expected gross monthly income of the customer when the loan is made; or

(b) Make a ~~short-term~~ **high-interest** loan which, under the terms of the loan agreement, requires any monthly payment that exceeds 25 percent of the expected gross monthly income of the customer.

2. A licensee is not in violation of the provisions of this section if the customer presents evidence of his gross monthly income to the licensee and represents to the licensee in writing that:

(a) For a deferred deposit loan, the loan does not exceed 25 percent of his expected gross monthly income when the loan is made; or

(b) For a ~~short-term~~ **high-interest** loan, the monthly payment required under the terms of the loan agreement does not exceed 25 percent of his expected gross monthly income.

Sec. 18. NRS 604A.430 is hereby amended to read as follows:

604A.430 **1.** A licensee shall not make more than one deferred deposit loan, **single-advance, single-payment loan** or ~~short-term~~ **high-interest** loan to the same customer at one time or before any outstanding balance is paid in full on an existing loan made by that licensee to the customer unless:

~~1-1~~ **(a)** The customer is seeking multiple loans that do not exceed the limits set forth in NRS 604A.425;

~~2-1~~ **(b)** The licensee charges the same or a lower *fee or service charge per \$100 if it is a deferred deposit loan or single-advance, single-payment loan, or the same or a lower annual percentage rate of interest if it is a high-interest loan that is not a single-advance, single-payment loan*, for any additional loans as he charged for the initial loan;

~~3-1~~ **(c)** Except for that part of the finance charge which consists of interest only, the licensee does not impose any other charge or fee to initiate any additional loans, except that a licensee who makes deferred deposit loans or ~~short-term~~ **high-interest** loans in accordance with the provisions of subsection 2 of NRS 604A.480 may charge a reasonable fee for preparing documents in an amount that does not exceed \$50; and

~~4-1~~ **(d)** If the additional loans are deferred deposit loans and the customer provides one or more additional checks that are not paid upon presentment ~~or one or more electronic transfers of money fail~~, the licensee does not charge any fees to the customer pursuant to NRS 604A.490, except for the fees allowed pursuant to that section for the first check that is not paid upon presentment ~~or electronic transfer of money that failed~~.

**2. As used in this section, “single-advance, single-payment loan” means a transaction in which, pursuant to a loan agreement, a customer is given a single advance equal to the amount financed with payment in full due within 35 days after the date of the transaction.**

Sec. 19. NRS 604A.435 is hereby amended to read as follows:

604A.435 A licensee shall not:

1. Accept:

(a) Collateral as security for a loan, except that a title to a vehicle may be accepted as security for a title loan.

(b) An assignment of wages, salary, commissions or other compensation for services, whether earned or to be earned, as security for a loan.

(c) A check as security for a ~~short-term~~ **high-interest** loan or title loan.

(d) More than one check or written authorization for an electronic transfer of money for each deferred deposit loan.

(e) A check or written authorization for an electronic transfer of money for any deferred deposit loan in an amount which exceeds the total of payments set forth in the disclosure statement required by the Truth in Lending Act and Regulation Z that is provided to the customer.

2. Take any note or promise to pay which does not disclose the date and amount of the loan, amount financed, annual percentage rate, finance charge, total of payments, payment schedule and a description and the amount of every fee charged, regardless of the name given to the fee and regardless of

whether the fee is required to be included in the finance charge under the Truth in Lending Act and Regulation Z.

3. Take any instrument, including a check or written authorization for an electronic transfer of money, in which blanks are left to be filled in after the loan is made.

4. Make any transaction contingent on the purchase of insurance or any other goods or services or sell any insurance to the customer with the loan.

5. Fail to comply with a payment plan which is negotiated and agreed to by the licensee and customer.

6. Charge any fee to cash a check representing the proceeds of a loan made by the licensee or any agent, affiliate or subsidiary of the licensee.

Sec. 19.5. NRS 604A.445 is hereby amended to read as follows:

604A.445 Notwithstanding any other provision of this chapter to the contrary:

1. The original term of a title loan must not exceed 30 days.

2. The title loan may be extended for not more than six additional periods of extension, with each such period not to exceed 30 days, if:

(a) Any interest or charges accrued during the original term of the title loan or any period of extension of the title loan are not capitalized or added to the principal amount of the title loan during any subsequent period of extension;

(b) The annual percentage rate charged on the title loan during any period of extension is not more than the annual percentage rate charged on the title loan during the original term; and

(c) No additional origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fees, are charged in connection with any extension of the title loan.

**3. *The original term of a title loan may be up to 210 days if:***

**(a) *The loan provides for payments in installments;***

**(b) *The payments are calculated to ratably and fully amortize the entire amount of principal and interest payable on the loan;***

**(c) *The loan is not subject to any extension; and***

**(d) *The loan does not require a balloon payment of any kind.***

Sec. 20. NRS 604A.460 is hereby amended to read as follows:

604A.460 1. A customer may rescind a loan on or before the close of business on the next day of business at the location where the loan was initiated. To rescind the loan, the customer must deliver to the licensee:

(a) A sum of money equal to the face value of the loan, less any fee charged to the customer to initiate the loan; or

(b) The original check, if any, which the licensee gave to the customer pursuant to the loan. Upon receipt of the original check, the licensee shall refund any fee charged to the customer to initiate the loan.

2. If a customer rescinds a loan pursuant to this section, the licensee:

(a) Shall not charge the customer any fee for rescinding the loan; and

(b) Upon receipt of the sum of money or check pursuant to subsection 1, shall give to the customer a receipt showing the account paid in full and:

(1) If the customer gave to the licensee a check or a written authorization for an electronic transfer of money to initiate a deferred deposit loan, the check or written authorization stamped “void”;

(2) If the customer gave to the licensee a promissory note to initiate a ~~[short-term]~~ **high-interest** loan, a copy of the promissory note stamped “void” or the receipt stamped “paid in full”; or

(3) If the customer gave to the licensee a title to a vehicle to initiate the title loan, the title.

Sec. 21. NRS 604A.465 is hereby amended to read as follows:

604A.465 1. A customer may pay a loan, or any extension thereof, in full at any time, without an additional charge or fee, before the date his final payment on the loan, or any extension thereof, is due.

2. If a customer pays the loan in full, including all interest, charges and fees negotiated and agreed to by the licensee and customer as permitted under this chapter, the licensee shall:

(a) Give to the customer:

(1) If the customer gave to the licensee a check or a written authorization for an electronic transfer of money to initiate a deferred deposit loan, the check or the written authorization stamped “void”;

(2) If the customer gave to the licensee a promissory note to initiate a ~~[short-term]~~ **high-interest** loan, the promissory note stamped “void” or a receipt stamped “paid in full”; or

(3) If the customer gave to the licensee a title to a vehicle to initiate a title loan, the title; and

(b) Give to the customer a receipt with the following information:

(1) The name and address of the licensee;

(2) The identification number assigned to the loan agreement or other information that identifies the loan;

(3) The date of the payment;

(4) The amount paid;

(5) An itemization of interest, charges and fees;

(6) A statement that the loan is paid in full; and

(7) If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.

Sec. 21.5. NRS 604A.475 is hereby amended to read as follows:

604A.475 1. Before a licensee attempts to collect the outstanding balance on a loan in default by ~~[assigning or selling the debt]~~ commencing any civil action or process of alternative dispute resolution or ~~[by]~~ repossessing a vehicle, the licensee shall offer the customer an opportunity to enter into a repayment plan. The licensee:

(a) Is required to make the offer available to the customer for a period of at least 30 days after the date of default; and

(b) Is not required to make such an offer more than once for each loan.

2. ~~[Not] If the licensee intends to ~~assign or sell the debt~~~~ ***commence any civil action or process of alternative dispute resolution or repossess a vehicle in an effort to collect a defaulted loan, the licensee shall deliver to the customer, not later than 15 days after the date of default, ~~the licensee shall provide to the customer~~ or not later than 5 days after a check is not paid upon presentment or an electronic transfer of money fails, whichever is later,*** written notice of the opportunity to enter into a repayment plan. The written notice must:

(a) Be in English, if the initial transaction was conducted in English, or in Spanish, if the initial transaction was conducted in Spanish;

(b) State the date by which the customer must act to enter into a repayment plan;

(c) Explain the procedures the customer must follow to enter into a repayment plan;

(d) If the licensee requires the customer to make an initial payment to enter into a repayment plan, explain the requirement and state the amount of the initial payment and the date the initial payment must be made;

(e) State that the customer has the opportunity to enter into a repayment plan with a term of at least 90 days after the date of default; and

(f) Include the following amounts:

(1) The total of payments or the remaining balance on the original loan;

(2) Any payments made on the loan;

(3) Any charges added to the loan amount allowed pursuant to the provisions of this chapter; and

(4) The total amount due if the customer enters into a repayment plan.

3. Under the terms of any repayment plan pursuant to this section:

(a) The customer must enter into the repayment plan not later than 30 days after the date of default, unless the licensee allows a longer period;

(b) The licensee must allow the period for repayment to extend at least 90 days after the date of default, unless the customer agrees to a shorter term;

(c) The licensee may require the customer to make an initial payment of not more than 20 percent of the total amount due under the terms of the repayment plan;

(d) For a deferred deposit loan:

(1) The licensee may require a customer to provide, as security, one or more checks or written authorizations for an electronic transfer of money which equal the total amount due under the terms of the repayment plan;

(2) The licensee shall, if the customer makes a payment in the amount of a check or written authorization taken as security for that payment, return to the customer the check or written authorization stamped "void" or destroy the check or written authorization; and

(3) The licensee shall not charge any fee to the customer pursuant to NRS 604A.490 for a check which is provided as security during the

repayment plan and which is not paid upon presentment if, in connection with that loan, the licensee has previously charged at least one such fee.

4. If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall honor the terms of the repayment plan, and the licensee shall not:

(a) Except as otherwise provided by this chapter, charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of entering into a repayment plan. Such an amount includes, without limitation:

(1) Any interest, regardless of the name given to the interest, other than the interest charged pursuant to the original loan agreement at a rate which does not exceed the annual percentage rate charged during the term of the original loan agreement; or

(2) Any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee;

(b) Except as otherwise provided in this section, accept any additional security or collateral from the customer to enter into the repayment plan;

(c) Sell to the customer any insurance or require the customer to purchase insurance or any other goods or services to enter into the repayment plan;

(d) Make any other loan to the customer, unless the customer is seeking multiple loans that do not exceed the limit set forth in NRS 604A.425;

(e) During the term of the repayment plan, attempt to collect the outstanding balance by commencing any civil action or process of alternative dispute resolution or by repossessing a vehicle, unless the customer defaults on the repayment plan; or

(f) Attempt to collect an amount that is greater than the amount owed under the terms of the repayment plan.

5. If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall:

(a) Prepare a written agreement establishing the repayment plan; and

(b) Give the customer a copy of the written agreement. The written agreement must:

(1) Be signed by the licensee and customer; and

(2) Contain all of the terms of the repayment plan, including, without limitation, the total amount due under the terms of the repayment plan.

6. Each time a customer makes a payment pursuant to a repayment plan, the licensee shall give to the customer a receipt with the following information:

(a) The name and address of the licensee;

(b) The identification number assigned to the loan agreement or other information that identifies the loan;

(c) The date of the payment;

(d) The amount paid;

(e) The balance due on the loan or, when the customer makes the final payment, a statement that the loan is paid in full; and

(f) If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.

7. If the customer defaults on the repayment plan, the licensee may, to collect the outstanding balance, commence any civil action or process of alternative dispute resolution or repossess a vehicle as otherwise authorized pursuant to this chapter.

Sec. 22. NRS 604A.480 is hereby amended to read as follows:

604A.480 1. Except as otherwise provided in subsection 2, if a customer agrees *in writing* to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding loan by using the proceeds of a new deferred deposit loan or ~~{short-term}~~ **high-interest** loan to pay the balance of the outstanding loan, the licensee shall not establish or extend ~~{such-a}~~ *the* period beyond 60 days after the expiration of the initial loan period. *The licensee shall not add any unpaid interest or other charges accrued during the original term of the outstanding loan or any extension of the outstanding loan to the principal amount of the new deferred deposit loan or high-interest loan.*

2. This section does not apply to a *new* deferred deposit loan or ~~{short-term}~~ **high-interest** loan if the licensee:

(a) Makes the *new* deferred deposit loan or ~~{short-term}~~ **high-interest** loan to a customer pursuant to a loan agreement which, under its original terms:

(1) Charges an annual percentage rate of less than 200 percent;

(2) Requires the customer to make a payment on the loan at least once every 30 days;

(3) Requires the loan to be paid in full in not less than 150 days; and

(4) Provides that interest does not accrue on the loan at the annual percentage rate set forth in the loan agreement after the date of maturity of the loan;

(b) Performs a credit check of the customer with a major consumer reporting agency before making the loan;

(c) Reports information relating to the loan experience of the customer to a major consumer reporting agency;

(d) Gives the customer the right to rescind the *new* deferred deposit loan or ~~{short-term}~~ **high-interest** loan within 5 days after the loan is made without charging the customer any fee for rescinding the loan;

(e) Participates in good faith with a counseling agency that is:

(1) Accredited by the Council on Accreditation for Services for Families and Children, Inc., or its successor organization; and

(2) A member of the National Foundation for Credit Counseling, or its successor organization; and

(f) Does not commence any civil action or process of alternative dispute resolution on a defaulted loan or any extension or repayment plan thereof.



Sec. 22.5. NRS 604A.485 is hereby amended to read as follows:

604A.485 1. ~~[Except as otherwise provided in NRS 604A.445, if]~~ *If* a customer defaults on a loan or on any extension or repayment plan relating to the loan, whichever is later, the licensee may collect only the following amounts from the customer, less all payments made before and after default:

(a) The **unpaid** principal amount of the loan.

(b) The **unpaid** interest, **if any**, accrued before the ~~[expiration of the initial loan period]~~ **default** at the annual percentage rate set forth in the disclosure statement required by the Truth in Lending Act and Regulation Z that is provided to the customer. If there is an extension, **in writing and signed by the customer**, relating to the loan, the licensee may charge and collect interest pursuant to this paragraph for a period not to exceed 60 days after the expiration of the initial loan period, unless otherwise allowed by NRS 604A.480.

(c) The interest accrued after the expiration of the initial loan period or after any extension or repayment plan that is allowed pursuant to this chapter, whichever is later, at an annual percentage rate not to exceed the prime rate at the largest bank in Nevada, as ascertained by the Commissioner, on January 1 or July 1, as the case may be, immediately preceding the expiration of the initial loan period, plus 10 percent. The licensee may charge and collect interest pursuant to this paragraph for a period not to exceed 90 days. After that period, the licensee shall not charge or collect any interest on the loan.

(d) Any fees allowed pursuant to NRS 604A.490 for a check that is not paid upon presentment **or an electronic transfer of money that fails** because the account of the customer contains insufficient funds or has been closed.

**↪ The sum of all amounts collected pursuant to paragraphs (b), (c) and (d) must not exceed the principal amount of the loan.**

2. Except for the interest and fees permitted pursuant to subsection 1 and any other charges expressly permitted pursuant to NRS 604A.430, 604A.445 and 604A.475, the licensee shall not charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of the extension of the period for the payment of the loan or the extension of credit. Such ~~[an amount includes]~~ **prohibited amounts include**, without limitation:

(a) Any interest, other than the interest charged pursuant to subsection 1, regardless of the name given to the interest; or

(b) Any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee.

Sec. 22.7. NRS 604A.490 is hereby amended to read as follows:

604A.490 1. A licensee may collect a fee of not more than \$25 if a check is not paid upon presentment **or an electronic transfer of money fails**

because the account of the customer contains insufficient funds or has been closed.

2. If the account of the customer contains insufficient funds, the licensee may collect only two fees of \$25 each regardless of the number of times the check is presented for payment ~~[-] or the electronic transfer of money is attempted.~~

3. If the account of the customer has been closed, the licensee may collect only one fee of \$25 regardless of the number of times the check is presented *or the electronic transfer of money is attempted* for payment.

4. A customer is not liable for damages pursuant to NRS 41.620 or to criminal prosecution for a violation of chapter 205 of NRS unless the customer acted with criminal intent.

Sec. 23. NRS 604A.655 is hereby amended to read as follows:

604A.655 1. Except as otherwise provided in this section, a licensee may not conduct the business of making loans within any office, suite, room or place of business in which any other lending business is solicited or engaged in, except an insurance agency or notary public, or in association or conjunction with any other business, unless authority to do so is given by the Commissioner.

2. A licensee may conduct the business of making loans in the same office or place of business as:

(a) A mortgage broker if:

(1) The licensee and the mortgage broker:

- (I) Maintain separate accounts, books and records;
- (II) Are subsidiaries of the same parent corporation; and
- (III) Maintain separate licenses; and

(2) The mortgage broker is licensed by this State pursuant to chapter 645B of NRS and does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.

(b) A mortgage banker if:

(1) The licensee and the mortgage banker:

- (I) Maintain separate accounts, books and records;
- (II) Are subsidiaries of the same parent corporation; and
- (III) Maintain separate licenses; and

(2) The mortgage banker is licensed by this State pursuant to chapter 645E of NRS and, if the mortgage banker is also licensed as a mortgage broker pursuant to chapter 645B of NRS, does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.

3. If a pawnbroker is licensed to operate a check-cashing service, deferred deposit loan service, ~~[short-term]~~ *high-interest* loan service or title loan service, the pawnbroker may operate that service at the same office or place of business from which he conducts business as a pawnbroker pursuant to chapter 646 of NRS.

Sec. 24. NRS 604A.710 is hereby amended to read as follows:

604A.710 1. For the purpose of discovering violations of this chapter or ~~of~~ securing information lawfully required under this chapter, the Commissioner or his duly authorized representatives may at any time investigate the business and examine the books, accounts, papers and records used therein of:

- (a) Any licensee;
- (b) Any other person engaged in the business of making loans or participating in such business as principal, agent, broker or otherwise; and
- (c) Any person who the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

2. For the purpose of examination, the Commissioner or his authorized representatives shall have and be given free access to the offices and places of business, and the files, safes and vaults of such persons.

3. For the purposes of this section, any person who advertises for, solicits or holds himself out as willing to make any deferred deposit loan, ~~short-term~~ **high-interest** loan or title loan is presumed to be engaged in the business of making loans.

Sec. 25. NRS 604A.920 is hereby amended to read as follows:

604A.920 If a person operates a check-cashing service, deferred deposit loan service, ~~short-term~~ **high-interest** loan service or title loan service without obtaining a license pursuant to this chapter:

1. Any contracts entered into by that person for the cashing of a check or for a deferred deposit loan, ~~short-term~~ **high-interest** loan or title loan are voidable by the other party to the contract; and

2. In addition to any other remedy or penalty, the other party to the contract may bring a civil action against the person pursuant to NRS 604A.930.

Sec. 26. NRS 604A.930 is hereby amended to read as follows:

604A.930 1. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, if a person violates any provision of NRS 604A.400, 604A.410 to 604A.500, inclusive, 604A.610, 604A.615, 604A.650 or 604A.655 **or section 6 of this act** or any regulation adopted pursuant thereto, the customer may bring a civil action against the person for : ~~any or all of the following relief:~~

- (a) Actual and consequential damages;
- (b) Punitive damages, which are subject to the provisions of NRS 42.005;
- (c) Reasonable attorney's fees and costs; and
- (d) Any other legal or equitable relief that the court deems appropriate.

2. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, the customer may bring a civil action against a person pursuant to subsection 1 to recover an additional amount, as statutory damages, which is equal to \$1,000 for each violation if the person knowingly:

(a) Operates a check-cashing service, deferred deposit loan service, ~~short-term~~ **high-interest** loan service or title loan service without a license, in violation of NRS 604A.400;

(b) Fails to include in a loan agreement a disclosure of the right of the customer to rescind the loan, in violation of NRS 604A.410;

(c) Violates any provision of NRS 604A.420;

(d) Accepts collateral or security for a deferred deposit loan, in violation of NRS 604A.435, except that a check or written authorization for an electronic transfer of money shall not be deemed to be collateral or security for a deferred deposit loan;

(e) Uses or threatens to use the criminal process in this State or any other state to collect on a loan made to the customer, in violation of NRS 604A.440;

(f) Includes in any written agreement a promise by the customer to hold the person harmless, a confession of judgment by the customer or an assignment or order for the payment of wages or other compensation due the customer, in violation of NRS 604A.440;

(g) Violates any provision of NRS 604A.485; ~~or~~

(h) Violates any provision of NRS 604A.490 ~~+~~; **or**

**(i) Violates any provision of section 6 of this act.**

3. A person may not be held liable in any civil action brought pursuant to this section if the person proves, by a preponderance of evidence, that the violation:

(a) Was not intentional;

(b) Was technical in nature; and

(c) Resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

4. For the purposes of subsection 3, a bona fide error includes, without limitation, clerical errors, calculation errors, computer malfunction and programming errors and printing errors, except that an error of legal judgment with respect to the person's obligations under this chapter is not a bona fide error.

Sec. 27. NRS 99.050 is hereby amended to read as follows:

99.050 ~~[Parties]~~ **Except as otherwise provided in section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation adopted pursuant thereto, parties** may agree for the payment of any rate of interest on money due or to become due on any contract, for the compounding of interest if they choose, and for any other charges or fees. The parties shall specify in writing the rate upon which they agree, that interest is to be compounded if so agreed, and any other charges or fees to which they have agreed.

Sec. 28. Chapter 675 of NRS is hereby amended by adding thereto a new section to read as follows:

**The provisions of this chapter apply to any person who:**

1. *Makes installment loans that are not subject to regulation pursuant to chapter 604A of NRS;*

2. *Is an affiliate, subsidiary or holding company of a bank, national banking association, savings bank, trust company, savings and loan association, credit union, development corporation, mortgage broker, mortgage banker, thrift company or insurance company; or*

3. *Seeks to evade its application by any device, subterfuge or pretense, including, without limitation:*

(a) *Calling a loan by any other name;*

(b) *Using any agents, affiliates or subsidiaries in an attempt to avoid the application of the provisions of this chapter; or*

(c) *Having any affiliation or other business arrangement with an entity that is exempt from the provisions of this chapter pursuant to subsection 1 of NRS 675.040, the effect of which is to evade the provisions of this chapter, including, without limitation, making a loan while purporting to be the agent of such an exempt entity where the purported agent holds, acquires or maintains a material economic interest in the revenues generated by the loan.*

Sec. 29. NRS 675.040 is hereby amended to read as follows:

675.040 This chapter does not apply to:

1. ~~{A}~~ *Except as otherwise provided in section 28 of this act, a person doing business under the authority of any law of this State or of the United States relating to banks, **national banking associations**, savings banks, trust companies, savings and loan associations, credit unions, development corporations, mortgage brokers, mortgage bankers, thrift companies, pawnbrokers or insurance companies.*

2. A real estate investment trust, as defined in 26 U.S.C. § 856.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his duties as an attorney at law if the loan is secured by real property.

5. A real estate broker rendering services in the performance of his duties as a real estate broker if the loan is secured by real property.

6. Except as otherwise provided in this subsection, any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

7. A person who provides money for investment in loans secured by a lien on real property, on his own account.

8. A seller of real property who offers credit secured by a mortgage of the property sold.

9. A person holding a nonrestricted state gaming license issued pursuant to the provisions of chapter 463 of NRS.

10. A person licensed to do business pursuant to chapter 604A of NRS with regard to those services regulated pursuant to chapter 604A of NRS.

Sec. 29.5. NRS 675.060 is hereby amended to read as follows:

675.060 1. No person may engage in the business of lending in this State without first having obtained a license from the Commissioner pursuant to this chapter for each office or other place of business at which the person engages in such business, except that if a person intends to engage in the business of lending in this State as a deferred deposit loan service, ~~short-term~~ **high-interest** loan service or title loan service, as those terms are defined in chapter 604A of NRS, the person must obtain a license from the Commissioner pursuant to chapter 604A of NRS before the person may engage in any such business.

2. For the purpose of this section, a person engages in the business of lending in this State if he:

(a) Solicits loans in this State or makes loans to persons in this State, unless these are isolated, incidental or occasional transactions; or

(b) Is located in this State and solicits loans outside of this State or makes loans to persons located outside of this State, unless these are isolated, incidental or occasional transactions.

Sec. 29.7. NRS 675.365 is hereby amended to read as follows:

675.365 In addition to the interest allowed pursuant to NRS 675.363, a licensee may, pursuant to the agreement for a loan for an indefinite term, receive from the borrower or add to the unpaid balance in that borrower's account:

1. Any fees imposed on the licensee pursuant to this chapter;

2. Any charge for insurance under NRS 675.300;

3. A charge not exceeding 25 cents for each transaction in which a loan or advance is made pursuant to the agreement or an annual fee for the use of an open-end account in an amount not to exceed \$20;

4. If the interest calculated for any billing cycle pursuant to NRS 675.363 is less than 50 cents:

(a) For a billing cycle which is monthly or longer, a charge in an amount not exceeding 50 cents; or

(b) For a billing cycle less than monthly, a charge in an amount equal to that portion of 50 cents which bears the same relation to 50 cents as the number of days in the billing cycle bear to 365 divided by 12;

5. For any check written by the borrower to the licensee which is returned ~~for~~, **or any electronic transfer of money that fails, because of** insufficient funds, a charge of \$10 or in an amount equal to the charges imposed on the licensee because of his reliance on that check ~~or~~ **or electronic transfer of money**, whichever amount is greater; and

6. Any charge assessed the licensee by a third party for the printing and distribution of any checks, drafts or other instruments to be used by the borrower in obtaining advances pursuant to the agreement.

Sec. 30. NRS 604A.095 and 604A.100 are hereby repealed.

Sec. 31. Any license to operate a short-term loan service that was issued by the Commissioner of Financial Institutions pursuant to chapter 604A of NRS before ~~July~~ **October** 1, 2007, shall be deemed to be a license to operate a high-interest loan service which was issued by the Commissioner pursuant to the provisions of chapter 604A of NRS and which expires on the date on which the license to operate a short-term loan service would have expired pursuant to the provisions of NRS 604A.640.

Sec. 32. 1. A license to engage in the business of lending in this State which was issued by the Commissioner of Financial Institutions pursuant to chapter 675 of NRS before ~~July~~ **October** 1, 2007, to a person who, pursuant to the provisions of this act, is subject to regulation only pursuant to chapter 604A of NRS, shall be deemed to be a license issued by the Commissioner pursuant to chapter 604A of NRS. Such a license expires on December 31, 2007, and may be renewed on or before its expiration in accordance with NRS 604A.640. Upon the renewal of such a license, the Commissioner shall issue to the holder of the license a license pursuant to chapter 604A of NRS in lieu of the license issued pursuant to chapter 675 of NRS.

2. Any person who is licensed pursuant to chapter 675 of NRS to engage in the business of lending in this State on ~~June~~ **September** 30, 2007, may continue to operate in the same location upon becoming licensed pursuant to chapter 604A of NRS, notwithstanding any ordinance or other zoning regulation to the contrary. This subsection does not exempt such a person from any provision of chapter 604A of NRS or any regulation adopted pursuant thereto.

Sec. 33. The amendatory provisions of this act do not apply to loans entered into before ~~July~~ **October** 1, 2007.

Sec. 34. This act becomes effective on ~~July~~ **October** 1, 2007.

#### TEXT OF REPEALED SECTIONS

604A.095 "Short-term loan" defined.

1. "Short-term loan" means a loan made to a customer pursuant to a loan agreement which, under its original terms:

- (a) Charges an annual percentage rate of more than 40 percent; and
- (b) Requires the loan to be paid in full in less than 1 year.

2. The term does not include:

- (a) A deferred deposit loan;
- (b) A title loan; or
- (c) A refund anticipation loan.

604A.100 "Short-term loan service" defined. "Short-term loan service" means any person engaged in the business of providing short-term loans for a fee, service charge or other consideration.

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 478.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 304.

The following Senate amendment was read:

Amendment No. 911.

AN ACT relating to manufactured home parks; revising the provisions relating to the review of rental agreements and other residency documents; revising the provisions relating to certain repairs to a manufactured home; making changes pertaining to rules and regulations of a manufactured home park; revising the provisions relating to meetings between a landlord and tenants under certain circumstances; requiring a landlord to pay certain costs associated with the conversion of a manufactured home park; ~~prohibiting local governing bodies from restricting the installation of certain manufactured homes;~~ **increasing the amount of the limitation on the lien of a landlord;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes provisions relating to rental agreements and other residency documents. (NRS 118B.040) Section 1 of this bill removes the requirement that a landlord must allow a tenant to review such documents for 72 hours during which time a landlord is not prevented from accepting another tenant for the same residency. Instead, section 1 requires a landlord to give a prospective tenant a copy of the rental agreement, a copy of the rules and regulations of the manufactured home park, any existing notices of the sale, closure or conversion of the manufactured home park and any other residency documents before requiring or accepting any application fee.

Existing law sets forth requirements relating to the repair of a manufactured home and prohibits a landlord from allowing a third party to make such repairs under certain circumstances. (NRS 118B.097) Section 2 of this bill replaces a prohibition on allowing a third party to make repairs that affect life, health or safety with a list of specific repairs that a landlord may not allow a third party to make. Section 2 also prohibits landlords from employing certain persons to make such repairs. **Further, section 2 requires the Administrator of the Manufactured Housing Division of the Department of Business and Industry to adopt regulations to specify the repairs that a person without an applicable license may make to a manufactured home.**

Section 3 of this bill revises the provisions relating to a landlord's adoption of rules and regulations concerning a manufactured home park and provides



that a properly adopted or amended rule or regulation supersedes any inconsistent prior rule or regulation. (NRS 118B.100) Section 3 also requires a landlord to provide a copy of such rules and regulations to a tenant at the time the tenant enters into a rental agreement.

Existing law establishes provisions relating to meetings between a landlord and representative groups of tenants to hear complaints and suggestions regarding a manufactured home park. (NRS 118B.110) Section 4 of this bill provides for a natural person designated by the owner to meet with tenants for such purposes. Section 4 also prohibits a manager from meeting with tenants for such purposes unless the manager, the landlord and the owner are all the same natural person.

Existing law requires a landlord to pay to a tenant the fair market value of a manufactured home under certain circumstances during the conversion of a manufactured home park. (NRS 118B.183) Section 5 of this bill requires a landlord to pay costs associated with determining the market value of such manufactured homes and the reasonable cost of removing and disposing of such homes.

~~f Existing law allows local governing bodies to adopt certain ordinances and regulations relating to manufactured homes. (NRS 278.0209, 278.02095, 489.288) Sections 7-9 of this bill prohibit local governing bodies from restricting the installation of manufactured homes based on their date of manufacture.]~~

**Section 6.5 of this bill increases the limitation on the amount of a lien that a landlord may hold for the total amount due and unpaid for rentals and utilities from \$2,000 to \$5,000.**

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

Section 1. NRS 118B.040 is hereby amended to read as follows:

118B.040 1. ~~{An approved applicant for residency may request 72 hours to review the proposed rental agreement or lease, the rules and regulations of the manufactured home park and other residency documents. Upon receiving such a request, the landlord shall allow the approved applicant to review the documents for 72 hours. This review period does not, however, prevent the landlord from accepting another tenant for the space or residency while the 72 hours is pending.}~~ *Before requiring or accepting payment of any application fee, a landlord shall give to a prospective tenant who may rent or lease a manufactured home lot:*

- (a) A copy of the rental agreement or lease;*
- (b) A copy of the rules and regulations governing the manufactured home park;*
- (c) Any notices of the sale, closure or conversion of the manufactured home park that must be provided to tenants pursuant to the provisions of this chapter; and*
- (d) Any other residency documents.*

2. A rental agreement or lease between a landlord and tenant to rent or lease any manufactured home lot must be in writing. ~~{The landlord shall give the tenant a copy of the agreement or lease at the time the tenant signs it.}~~

3. A rental agreement or lease must contain, but is not limited to, provisions relating to:

- (a) The duration of the agreement.
- (b) The amount of rent, the manner and time of its payment and the amount of any charges for late payment and dishonored checks.
- (c) Restrictions on occupancy by children or pets.
- (d) Services and utilities included with the rental of a lot and the responsibility of maintaining or paying for them, including the charge, if any, for cleaning the lots.
- (e) Deposits which may be required and the conditions for their refund.
- (f) Maintenance which the tenant is required to perform and any appurtenances he is required to provide.
- (g) The name and address of the owner of the manufactured home park and his authorized agent.
- (h) Any restrictions on subletting.
- (i) Any recreational facilities and other amenities provided to the tenant and any deposits or fees required for their use.
- (j) Any restriction of the park to older persons pursuant to federal law.
- (k) The dimensions of the manufactured home lot of the tenant.
- (l) A summary of the provisions of NRS 202.470.
- (m) Information regarding the procedure pursuant to which a tenant may report to the appropriate authorities:

(1) A nuisance.

(2) A violation of a building, safety or health code or regulation.

(n) Information regarding the right of the tenant to engage in the display of the flag of the United States, as set forth in NRS 118B.143.

(o) The amount to be charged each month to the tenant to reimburse the landlord for the cost of a capital improvement to the manufactured home park. Such an amount must be stated separately and include the length of time the charge will be collected and the total amount to be recovered by the landlord from all tenants in the manufactured home park.

Sec. 2. NRS 118B.097 is hereby amended to read as follows:

118B.097 1. If a repair to a manufactured home may affect ~~{life, health or safety}~~ **the structural, electrical, plumbing, drainage, roofing, mechanical or solid fuel burning systems of the home, or requires a permit before the repair may be made, and** the repair may be performed legally only by a person who is qualified by licensure ~~{or certification}~~ to perform such a repair ~~{, and}~~ **and:**

~~{1.}~~ **(a)** A person shall not perform the repair unless he has such qualifications; and

~~{2.}~~ **(b)** A tenant or a landlord, or his agent or employee, shall not ~~{allow}~~ **employ** a third party to perform the repair if he knows or, in light of all the

surrounding facts and circumstances, reasonably should know that the third party does not have such qualifications.

**2. The Administrator shall adopt regulations to specify the repairs that a person without an applicable license may make to a manufactured home in accordance with the provisions of this section and chapter 489 of NRS.**

Sec. 3. NRS 118B.100 is hereby amended to read as follows:

118B.100 1. The landlord may adopt rules or regulations concerning the tenant's use and occupancy of the manufactured home lot and the grounds, areas and facilities of the manufactured home park held out for the use of tenants generally.

2. All such rules or regulations must be:

- (a) Reasonably related to the purpose for which they are adopted;
- (b) Sufficiently explicit in their prohibition, direction or limitation to inform the tenant of what he must do or not do for compliance;
- (c) Adopted in good faith and not for the purpose of evading any obligation of the landlord arising under the law;
- (d) Consistent with the provisions of this chapter and a general plan of operation, construction or improvement, and must not arbitrarily restrict conduct or require any capital improvement by the tenant which is not specified in the rental agreement or unreasonably require a change in any capital improvement made by the tenant and previously approved by the landlord unless the landlord can show that it is in the best interest of the other tenants; and

(e) Uniformly enforced against all tenants in the park, including the managers. Any rule or regulation which is not so uniformly enforced may not be enforced against any tenant.

3. No rule or regulation may be used to impose any additional charge for occupancy of a manufactured home lot or modify the terms of a rental agreement.

4. Except as otherwise provided in subsection 5, a rule or regulation is enforceable against the tenant only if he has notice of it at the time he enters into the rental agreement. A rule or regulation adopted or amended after the tenant enters into the rental agreement is not enforceable unless the tenant consents to it in writing or is given 60 days' notice of it in writing. The landlord may not adopt or amend a rule or regulation of the park unless a meeting of the tenants is held to discuss the proposal and the landlord provides each tenant with notice of the proposal and the date, time and place of the meeting not less than 60 days before the meeting. The notice must include a copy of the proposed adoption or amendment of the rule or regulation. A notice in a periodic publication of the park does not constitute notice for the purposes of this subsection.

5. A rule or regulation pertaining to recreational facilities in the manufactured home park must be in writing to be enforceable.

***6. A rule or regulation adopted or amended in compliance with the provisions of this section supersedes any previously existing rule or***

*regulation that conflicts with the adopted or amended rule or regulation. Only one version of any rules and regulations or any architectural standards may be in effect at any given time.*

**7. The landlord shall provide the tenant with a copy of the existing rules and regulations at the time the tenant enters into the rental agreement.**

**8.** As used in this section, “capital improvement” means an addition or betterment made to a manufactured home located on a lot in a manufactured home park which is leased by the landlord that:

- (a) Consists of more than the repair or replacement of an existing facility;
- (b) Is required by federal law to be amortized over its useful life for the purposes of income tax; and
- (c) Has a useful life of 5 years or more.

Sec. 4. NRS 118B.110 is hereby amended to read as follows:

118B.110 1. The landlord ***or a person designated pursuant to subsection 3*** shall meet with a representative group of tenants occupying the park, chosen by the tenants, to hear any complaints or suggestions which concern a matter relevant to the park within 45 days after he receives a written request to do so which has been signed by persons occupying at least 25 percent of the lots in the park. The 25 percent must be calculated on the basis of one signature per occupied lot. The meeting must be held at a time and place which is convenient to the landlord ***or person designated pursuant to subsection 3*** and ***to*** the tenants. The representative group of tenants must consist of no more than five persons.

2. At least 10 days before any meeting is held pursuant to this section, the landlord or his agent shall post a notice of the meeting in a conspicuous place in a common area of the park.

3. ~~[(f)]~~ ***Except as otherwise provided in subsection 4, if*** the landlord is ~~[(a)]~~ ***not a natural person, the owner may designate an authorized agent or representative*** who has working knowledge of the operations of the park and authority to make decisions shall meet with the tenants.

~~[(b)]~~ ***Partnership, a partner who has working knowledge of the operations of the park and authority to make decisions shall meet with the tenants.***

~~[(c)]~~ ***Corporation, an officer designated by the corporation]*** ***not a natural person, the owner may designate an authorized agent or representative*** who has working knowledge of the operations of the park and ***who has*** authority to make decisions ~~[(d)]~~ ***concerning matters relevant to the park to meet with the tenants pursuant to this subsection.***

4. ***A manager may not meet with the tenants pursuant to this section unless the manager, the landlord and the owner are all the same natural person.***

5. If an attorney for the landlord attends a meeting held pursuant to this section, the landlord shall not prohibit the group of tenants from being represented by an attorney at that meeting.

~~{5-}~~ 6. If the landlord of a manufactured home park is a cooperative association or a corporation for public benefit, the landlord shall provide a notice of the meeting to the Administrator and the Administrator or his representative shall attend the meeting.

~~{6-}~~ 7. As used in this section:

(a) "Cooperative association" means an association formed pursuant to the provisions of NRS 81.170 to 81.270, inclusive.

(b) "Corporation for public benefit" has the meaning ascribed to it in NRS 82.021.

Sec. 5. NRS 118B.183 is hereby amended to read as follows:

118B.183 1. A landlord may convert an existing manufactured home park to any other use of the land if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.

2. The landlord may undertake a conversion pursuant to this section only if:

(a) The landlord gives notice in writing to each tenant within 5 days after he files his application for the change in land use with the local zoning board, planning commission or governing body;

(b) The landlord pays the amount described in subsection 3 or 4, in accordance with the choice of the tenant; and

(c) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, written notice is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot.

3. If the tenant chooses to move the manufactured home, the landlord shall pay to the tenant:

(a) The cost of moving the tenant's manufactured home and its appurtenances to a new location within 50 miles from the manufactured home park; or

(b) If the new location is more than 50 miles from the manufactured home park, the cost of moving the manufactured home for the first 50 miles, including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park.

4. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged, or there is no manufactured home park within 50 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home less the reasonable cost of removing and disposing of the manufactured home.

5. A landlord shall not increase the rent of any tenant:

(a) For 180 days before filing an application for a change in land use, permit or variance affecting the manufactured home park; or

(b) At any time after filing an application for a change in land use, permit or variance affecting the manufactured home park unless:

(1) The landlord withdraws the application or the appropriate local zoning board, planning commission or governing body denies the application; and

(2) The landlord continues to operate the manufactured home park after the withdrawal or denial.

6. For the purposes of this section, the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home must be determined by:

(a) A dealer licensed pursuant to chapter 489 of NRS who is agreed upon by the landlord and tenant; or

(b) If the landlord and tenant cannot agree pursuant to paragraph (a), a dealer licensed pursuant to chapter 489 of NRS who is selected for this purpose by the Division.

7. ***The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the reasonable cost of removing and disposing of a manufactured home pursuant to subsection 6.***

8. The provisions of this section do not apply to a corporate cooperative park.

Sec. 6. (Deleted by amendment.)

**Sec. 6.5. NRS 108.290 is hereby amended to read as follows:**

108.290 1. If property that is the subject of a lien which is acquired as provided in NRS 108.270 to 108.360, inclusive, is the subject of a secured transaction in accordance with the laws of this State, the lien:

(a) In the case of a lien acquired pursuant to NRS 108.315, is a first lien.

(b) In the case of a lien on a motor vehicle for charges for towing, storing and any related administrative fees:

(1) For the first 30 days of the lien:

(I) If the amount of the lien does not exceed \$1,000, is a first lien.

(II) If the amount of the lien exceeds \$1,000, is a second lien.

(2) After the first 30 days of the lien:

(I) If the amount of the lien does not exceed \$2,500, is a first lien.

(II) If the amount of the lien exceeds \$2,500, is a second lien.

(c) In all other cases, if the amount of the lien:

(1) Does not exceed \$1,000, is a first lien.

(2) Exceeds \$1,000, is a second lien.

2. The lien of a landlord may not exceed ~~the amount of the lien~~ **\$5,000** or the total amount due and unpaid for rentals and utilities, whichever is the lesser.

Sec. 7. ~~[NRS 278.0209 is hereby amended to read as follows:~~

~~278.0209 1. In any ordinance relating to the zoning of land adopted or amended by a governing body, the definition of "single family residence" must include factory built housing that has been built in compliance with the standards for single family residential dwellings of the Uniform Building Code most recently adopted by the International Conference of Building Officials.~~

~~2. An ordinance of the governing body may require factory built housing to comply with standards for safety which exceed the standards prescribed in subsection 1 if a single family residential dwelling on the same lot is also required to comply with those standards.~~

~~3. The governing body shall adopt the same standards for development for the factory built housing and the lot on which it is placed as those to which a conventional single family residential dwelling on the same lot would be subject, including, but not limited to:~~

~~(a) Requirements for the setback of buildings.~~

~~(b) Side and rear yard requirements.~~

~~(c) Standards for enclosures, access and the parking of vehicles.~~

~~(d) Aesthetic requirements.~~

~~(e) Requirements for minimum square footage.~~

~~(f) Requirements for design, style and structure.~~

~~4. The governing body may prohibit the installation of factory built housing in a specified area if [:~~

~~(a) More than 5 years have elapsed between the date of manufacture of factory built housing and the date of the application for the issuance of a permit to install factory built housing in the affected area; or~~

~~(b) The] the area contains a building, structure or other object having a special character or special historical interest or value.~~

~~5. As used in this section, "factory built housing" has the meaning ascribed to it in NRS 461.080.~~

~~6. The provisions of this section do not abrogate a recorded restrictive covenant.] (Deleted by amendment.)~~

Sec. 8. ~~[NRS 278.02095 is hereby amended to read as follows:~~

~~278.02095 1. Except as otherwise provided in this section, in an ordinance relating to the zoning of land adopted or amended by a governing body, the definition of "single family residence" must include a manufactured home.~~

~~2. Notwithstanding the provisions of subsection 1, a governing body shall adopt standards for the placement of a manufactured home that will not be affixed to a lot within a mobile home park which require that:~~

~~(a) The manufactured home:~~

~~(1) Be permanently affixed to a residential lot;~~

~~(2) [Be manufactured within the 5 years immediately preceding the date on which it is affixed to the residential lot;~~

~~(3) Have exterior siding and roofing which is similar in color, material and appearance to the exterior siding and roofing primarily used on other single family residential dwellings in the immediate vicinity of the manufactured home, as established by the governing body;~~

~~[(4)] (3) Consist of more than one section; and~~

~~[(5)] (4) Consist of at least 1,200 square feet of living area unless the governing body, by administrative variance or other expedited procedure established by the governing body, approves a lesser amount of square footage based on the size or configuration of the lot or the square footage of single family residential dwellings in the immediate vicinity of the manufactured home; and~~

~~(b) If the manufactured home has an elevated foundation, the foundation is marked architecturally in a manner determined by the governing body.~~

~~\* The governing body of a local government in a county whose population is less than 40,000 may adopt standards that are less restrictive than the standards set forth in this subsection.~~

~~3. Standards adopted by a governing body pursuant to subsection 2 must be objective and documented clearly and must not be adopted to discourage or impede the construction or provision of affordable housing, including, without limitation, the use of manufactured homes for affordable housing.~~

~~4. Before a building department issues a permit to place a manufactured home on a lot pursuant to this section, other than a new manufactured home, the owner must surrender the certificate of ownership to the Manufactured Housing Division of the Department of Business and Industry. The Division shall provide proof of such a surrender to the owner who must submit that proof to the building department.~~

~~5. The provisions of this section do not abrogate a recorded restrictive covenant prohibiting manufactured homes nor do the provisions apply within the boundaries of a historic district established pursuant to NRS 384.005 or 384.100. An application to place a manufactured home on a residential lot pursuant to this section constitutes an attestation by the owner of the lot that the placement complies with all covenants, conditions and restrictions placed on the lot and that the lot is not located within a historic district.~~

~~6. As used in this section:~~

~~(a) "Manufactured home" has the meaning ascribed to it in NRS 489.113.~~

~~(b) "New manufactured home" has the meaning ascribed to it in NRS 489.125.] (Deleted by amendment.)~~

~~Sec. 9. [NRS 489.288 is hereby amended to read as follows:~~

~~489.288 Except as otherwise provided in NRS 278.02095:~~

~~1. A local governing body may adopt ordinances and regulations which, except for ordinances and regulations regarding any prerequisites to the classification of a manufactured home or mobile home as real property pursuant to NRS 361.244, are no more stringent than the provisions of this chapter, the regulations adopted pursuant to this chapter and applicable federal statutes and regulations. Compliance with an ordinance or regulation~~



~~of a local governing body does not excuse any person from compliance with this chapter and the regulations adopted pursuant to this chapter.~~

~~2. A local governing body shall not prohibit the installation of a manufactured home based on its date of manufacture if the manufactured home otherwise complies with the provisions of this chapter and the regulations adopted pursuant to this chapter governing health and safety.~~

~~3. The provisions of this chapter and the regulations adopted pursuant to this chapter supersede and preempt any ordinance or regulation of a local governing body that is more stringent than those provisions, except for an ordinance or regulation regarding any prerequisites to the classification of a manufactured home or mobile home as real property pursuant to NRS 361.244.] (Deleted by amendment.)~~

Sec. 10. (Deleted by amendment.)

**Sec. 11. The amendatory provisions of section 6.5 of this act do not apply to a lien that attaches before October 1, 2007.**

Assemblyman Ocegüera moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 304.

Remarks by Assemblyman Ocegüera.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 352.

The following Senate amendment was read:

Amendment No. 947.

**SUMMARY—~~[Prohibits]~~ Revises provisions governing the issuance of certain work cards ~~[to persons who have been convicted of certain crimes.]~~ for employment at certain kinds of dwelling units.** (BDR 10-708)

AN ACT relating to work cards; **making the issuance of a temporary work card for employment at certain kinds of dwelling units discretionary rather than mandatory;** prohibiting the issuance of work cards for **such** employment ~~[at certain kinds of dwelling units]~~ to persons who have been convicted of certain crimes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a landlord of dwelling units intended and operated exclusively for persons 55 years of age and older is prohibited from employing persons to perform certain work on the premises unless the person has obtained a work card from the county sheriff. (NRS 118A.335) This bill : **(1) makes the issuance of a temporary work card to an applicant who is being investigated discretionary rather than mandatory; and (2) prohibits the sheriff from issuing ~~[such]~~ a work card to a person who has been convicted of certain crimes, including a category A, B or C felony or a similar crime in another state, a sexual offense, certain crimes against the elderly or other vulnerable persons, certain batteries, certain thefts or certain violations of state or federal drug laws. This bill further provides that a**

person who is denied a work card who believes the information provided to the sheriff by the Central Repository for Nevada Records of Criminal History is incorrect must be given an opportunity to correct the information.

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

Section 1. NRS 118A.335 is hereby amended to read as follows:

118A.335 1. Except as otherwise provided in subsection ~~[4.]~~ 5, a landlord of dwelling units intended and operated exclusively for persons 55 years of age and older may not employ any person who will work 36 hours or more per week and who will have access to all dwelling units to perform work on the premises unless the person has obtained a work card issued pursuant to subsection 2 by the sheriff of the county in which the dwelling units are located and renewed that work card as necessary.

2. The sheriff of a county shall issue a work card to each person who is required by this section to obtain a work card and who complies with the requirements established by the sheriff for the issuance of such a card. A work card issued pursuant to this section must be renewed:

(a) Every 5 years; and

(b) Whenever the person changes his employment to perform work for an employer other than the employer for which his current work card was issued.

3. If the sheriff of a county requires an applicant for a work card to be investigated:

(a) The applicant must submit with his application a complete set of his fingerprints and written permission authorizing the sheriff to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(b) The sheriff ~~[may]~~ **shall** submit the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to determine the criminal history of the applicant.

(c) The sheriff ~~[shall]~~ **may** issue a temporary work card pending the determination of the criminal history of the applicant by the Federal Bureau of Investigation.

4. ***The sheriff shall not issue a work card to any person who:***

(a) ***Has been convicted of a category A, B or C felony or of a crime in another state which would be a category A, B or C felony if committed in this State;***

(b) ***Has been convicted of a sexual offense;***

(c) ***Has been convicted of a crime against any person who is 60 years of age or older or against a vulnerable person for which an additional term of imprisonment may be imposed pursuant to NRS 193.167 or the laws of any other jurisdiction;***

*(d) Has been convicted of a battery punishable as a gross misdemeanor;*  
*or*

*(e) Within the immediately preceding 5 years:*

*(1) Has been convicted of a theft; or*

*(2) Has been convicted of a violation of any state or federal law regulating the possession, distribution or use of a controlled substance.*

5. The following persons are not required to obtain a work card pursuant to this section:

(a) A person who holds a permit to engage in property management pursuant to chapter 645 of NRS.

(b) An independent contractor. As used in this paragraph, “independent contractor” means a person who performs services for a fixed price according to his own methods and without subjection to the supervision or control of the landlord, except as to the results of the work, and not as to the means by which the services are accomplished.

(c) An offender in the course and scope of his employment in a work program directed by the warden, sheriff, administrator or other person responsible for administering a prison, jail or other detention facility.

(d) A person performing work through a court-assigned restitution or community-service program.

6. *If the sheriff does not issue a work card to a person because the information received from the Central Repository for Nevada Records of Criminal History indicates that the person has been convicted of a crime listed in subsection 4 and the person believes that the information provided by the Central Repository is incorrect, the person may immediately inform the sheriff. If the sheriff is so informed, he shall give the person at least 30 days in which to correct the information before terminating the temporary work card issued pursuant to subsection 3.*

7. *As used in this section, unless the context otherwise requires:*

*(a) "Sexual offense" has the meaning ascribed to it in NRS 179D.410.*

*(b) "Vulnerable person" has the meaning ascribed to it in NRS 200.5092.*

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 352.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 375.

The following Senate amendment was read:

Amendment No. 896.

AN ACT relating to loans; **creating various education and examination requirements related to an initial license as a mortgage broker or mortgage agent; requiring the designation of a qualified employee for certain mortgage brokers; creating certain requirements related to**

continuing education and mortgage lending; creating certain requirements for fees associated with loans secured by liens on real property; providing for certain requirements related to mortgage brokers and broker-dealers, sales representatives, investment advisers and representatives of investment advisers; revising the possible range of certain fees related to a license as a mortgage broker; revising the apportionment of certain extra hours of continuing education earned by a mortgage broker; requiring the Commissioner of Mortgage Lending to adopt certain regulations concerning investors and limitations on loans to directors, officers and employees; **providing for biennial examinations of certain mortgage brokers under various circumstances; revising the deadline for certain financial statements by a mortgage broker; creating requirements for new financial statements related to certain accounts of a mortgage broker; revising certain advertising requirements of a mortgage broker;** prohibiting a mortgage broker from assigning all or part of his interest in a loan that is secured by a lien on real property under certain circumstances; **revising certain provisions related to persons not subject to chapter 645E of NRS; revising certain provisions related to persons exempt from chapter 645E of NRS;** ~~requiring a mortgage banker to ensure that each loan secured by a lien on real property includes a reasonable fee for servicing the loan and that the fee is deposited in a trust account;~~ **revising the possible range of fees for a license as a mortgage banker; revising provisions related to financial statements of a mortgage banker; revising provisions related to foreign corporations and what constitutes doing business in this State; requiring certain present and future mortgage broker and mortgage agent licensees to meet certain requirements; providing a penalty; and providing other matters properly relating thereto.**

Legislative Counsel's Digest:

Existing law regulates the activities of various mortgage lenders, including the activities of mortgage brokers and mortgage bankers. (Chapters 645B and 645E of NRS) Existing law further provides that, subject to administrative supervision by the Director of the Department of Business and Industry, the Commissioner of Mortgage Lending is required to administer the provisions of law governing the licensing and regulation of mortgage brokers and mortgage bankers. (NRS 645B.060, 645E.300, 645F.250)

**Section 1.4 of this bill revises the requirements for an initial license as a mortgage broker or mortgage agent regarding education on mortgage lending and applicable examinations.**

**Section 1.6 of this bill requires that a qualified employee be designated by a mortgage broker who is not a natural person.**

**Section 1.8 of this bill revises provisions concerning the requirements that a course of continuing education must meet, including, without limitation, requirements relating to providers and instructors, records, approval and revocation of approval of courses, monitoring, disciplinary**

**action, and participation by representatives of the mortgage lending industry in the creation of the requirements.**

~~[Sections 2 and 9] Section 2 of this bill ~~[(1) require]~~ requires a mortgage broker ~~[and a mortgage banker, respectively,]~~ to ensure that each loan secured by a lien on real property for which the mortgage broker ~~for mortgage banker]~~ engages in activity as a mortgage broker ~~for mortgage banker]~~ includes a reasonable fee for servicing the loan . ~~[(1) and (2) require the establishment and maintenance of a trust account for the deposit of the fee for servicing a loan.]~~~~

Section 3 of this bill prohibits a mortgage broker who is licensed or exempt from licensing as a broker-dealer, sales representative, investment adviser or representative of an investment adviser under the laws of this State from commingling money received from mortgage transactions with money received from securities transactions.

**Existing law describes various fees related to a license as a mortgage broker. (NRS 645B.050) Section 4.4 of this bill revises the range of fees that may be charged for a license as a mortgage broker.**

**Existing law describes various continuing education requirements for a mortgage broker. (NRS 645B.051) Section 4.8 of this bill revises how various extra hours of continuing education that are earned by a mortgage broker may be apportioned by the Commissioner.**

Existing law defines an “investor” for purposes of chapter 645B of NRS to mean a person who wishes to acquire or who acquires ownership of or a beneficial interest in a loan that is secured by a lien on real property. (NRS 645B.0121) Section 5 of this bill requires the Commissioner to establish, by regulation, the financial conditions for an investor to acquire that ownership or beneficial interest in the loan.

Existing law authorizes the Commissioner of Financial Institutions to establish limitations on loans made by a bank to its directors, officers or employees. (NRS 662.145) ~~[Sections]~~ **Section 5** ~~[and 11]~~ of this bill ~~[require]~~ **requires** the Commissioner of Mortgage Lending to establish similar limitations on loans made by mortgage brokers ~~[and mortgage bankers]~~ to directors, officers or employees of the mortgage broker . ~~[for mortgage banker.]~~

**(NRS 645B.060)**

**Existing law provides for annual examinations of mortgage brokers. (NRS 645B.060) Section 5 of this bill provides for biennial examinations of a mortgage broker, rather than annual examinations, in certain circumstances.**

**Existing law provides for a mortgage broker to submit a financial statement to the Commissioner at the end of each fiscal year. (NRS 645B.085) Section 5.3 of this bill changes the deadline for this financial statement.**

**Existing law provides for requirements related to accounts for certain money received in relation to various loans secured by liens on real**

property. (NRS 645B.175) Section 5.6 of this bill requires the submission every 6 months of a new financial statement for such accounts.

Existing law provides for certain advertising requirements for mortgage brokers. (NRS 645B.189) Section 5.9 of this bill revises those requirements to require only those mortgage brokers who have received an initial license in the last 12 months to submit advertisements for the Commissioner's approval.

Existing law prohibits a mortgage broker from assigning his interest in a loan that is secured by a lien on real property unless the mortgage broker obtains title insurance for the property and records the assignment in the county recorder's office of the county in which the property is located. (NRS 645B.310) Section 6 of this bill requires the mortgage broker also to obtain the approval of each investor in the loan if, at the time of the assignment, the debtor on the loan is in default on his loan payments.

Existing law provides for persons who are not subject to chapter 645E of NRS. Section 10 of this bill clarifies which subsidiaries or holding companies are not subject to that chapter.

Existing law provides for the requirements that a person must meet to claim an exemption from the provisions of chapter 645E of NRS. (NRS 645E.160) Section 10.4 of this bill revises the requirements in regards to those who hold certain licenses and in regards to federal law.

Existing law provides for various fees related to a license as a mortgage banker. (NRS 645E.280) Section 10.8 of this bill revises the range of fees that may be charged for a license as a mortgage banker.

Existing law authorizes the Commissioner of Financial Institutions to establish limitations on loans made by a bank to its directors, officers or employees. (NRS 662.145) Section 11 of this bill requires the Commissioner of Mortgage Lending to establish similar limitations on loans made by mortgage bankers to directors, officers or employees of the mortgage banker. (NRS 645E.300)

Existing law provides for a mortgage banker to submit a financial statement to the Commissioner at the end of each fiscal year. (NRS 645E.360) Section 11.5 of this bill changes the deadline for this financial statement.

Existing law provides for the regulation of foreign corporations. (Chapter 80 of NRS) Section 12.4 of this bill revises the definition of what constitutes doing business in this State relating to foreign corporations and regarding the activities of a mortgage broker or a mortgage banker or arranging a mortgage loan that is not secured by commercial property.

Section 12.8 of this bill requires certain present and future holders of a license as a mortgage agent or mortgage broker or a designation as a qualified employee to meet various requirements contained in this bill.

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

Section 1. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections ~~(2 and)~~ 1.4 to 3, inclusive, of this act.

Sec. 1.4. 1. In addition to any other requirements provided by this chapter, a person who wishes to receive an initial license as a mortgage broker or mortgage agent must:

(a) Complete education on mortgage lending as required by this chapter; or

(b) Successfully pass a written examination as determined by the Division.

2. If the applicant for an initial license as a mortgage broker is not a natural person, the applicant must designate a natural person to be the qualified employee of the applicant and meet the requirements of subsection 1.

3. The Division:

(a) May hire a testing organization to create, administer and score a written examination; and

(b) May create waivers for a written examination.

4. The Commissioner may adopt regulations to carry out the provisions of this section, including, without limitation, regulations relating to the content of a written examination, the scoring of a written examination or any possible waivers of a written examination.

Sec. 1.6. 1. If a mortgage broker is not a natural person, the mortgage broker must designate a natural person as a qualified employee to act on behalf of the mortgage broker.

2. The Division shall adopt regulations regarding a qualified employee, including, without limitation, regulations that establish:

(a) A definition for the term "qualified employee";

(b) Any duties of a qualified employee; and

(c) Any requirements regarding a qualified employee.

Sec. 1.8. 1. A course of continuing education that is required pursuant to chapter 645B of NRS must meet the requirements set forth by the Commissioner by regulation.

2. The Commissioner shall adopt regulations:

(a) Relating to the requirements for courses of continuing education, including, without limitation, regulations relating to the providers and instructors of such courses, records kept for such courses, approval and revocation of approval of such courses, monitoring of such courses and disciplinary action taken regarding such courses.

(b) Allowing for the participation of representatives of the mortgage lending industry pertaining to the creation of regulations regarding such courses.

Sec. 2. ~~1.1.~~ A mortgage broker shall ensure that ~~1.~~

~~(a) Each~~ each loan secured by a lien on real property for which he engages in activity as a mortgage broker includes a fee for servicing the loan which must be specified in the loan. The fee must be in an amount reasonably necessary to pay the cost of servicing the loan.

~~† (b) All money paid to the mortgage broker and his mortgage agents for servicing such a loan must be deposited in an insured depository financial institution and kept separate, distinct and apart from money belonging to the mortgage broker. Such money, when deposited, is to be deposited under an appropriate name indicating that the accounts are not the money of the mortgage broker.~~

~~2. A mortgage broker has a fiduciary duty to each debtor with respect to the money in a trust account maintained pursuant to subsection 1.~~

~~3. A mortgage broker shall, upon reasonable notice, account to any debtor whose real property secures a loan arranged by the mortgage broker for any money which that person has paid to the mortgage broker for the cost of servicing a loan.~~

~~4. A mortgage broker shall submit to the Commissioner each calendar quarter a financial statement concerning the trust accounts established and maintained pursuant to subsection 1.~~

~~5. A mortgage broker shall annually review a trust account and, within 30 days after the completion of the annual review, notify the debtor:~~

~~(a) Of the amount by which the contributions exceed the amount reasonably necessary to pay the annual cost of servicing the loan; and~~

~~(b) That the debtor may specify the disposition of the excess money within 20 days after receipt of the notice. If the debtor fails to specify such a disposition within that time, the mortgage broker shall maintain the excess money in the trust account.~~

Sec. 3. 1. A mortgage broker who is a broker-dealer or a sales representative licensed pursuant to NRS 90.310 or who is exempt from licensure pursuant to NRS 90.320:

(a) Shall not commingle money received for mortgage transactions and money received for securities transactions; and

(b) Shall ensure that all money received for mortgage transactions is accounted for separately from all money received for securities transactions.

2. A mortgage broker who is an investment ~~advisor~~ adviser or a representative of an investment ~~advisor~~ adviser licensed pursuant to NRS 90.330 or exempt from licensure pursuant to NRS 90.340:

(a) Shall not commingle money received for mortgage transactions and money received for securities transactions; and

(b) Shall ensure that all money received for mortgage transactions is accounted for separately from all money received for securities transactions.

Sec. 4. (Deleted by amendment.)

Sec. 4.4. NRS 645B.050 is hereby amended to read as follows:



645B.050 1. A license as a mortgage broker issued pursuant to this chapter expires each year on June 30, unless it is renewed. To renew such a license, the licensee must submit to the Commissioner on or before May 31 of each year:

- (a) An application for renewal;
- (b) The fee required to renew the license pursuant to this section;
- (c) The information required pursuant to NRS 645B.051; and
- (d) All information required to complete the renewal.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before May 31 of any year, the license is cancelled as of June 30 of that year. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

- (a) An application for renewal;
- (b) The fee required to renew the license pursuant to this section;
- (c) The information required pursuant to NRS 645B.051;
- (d) Except as otherwise provided in this section, a reinstatement fee of not more than \$200; and
- (e) All information required to complete the reinstatement.

3. Except as otherwise provided in NRS 645B.016, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before November 30 of each year:

- (a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter; and
- (b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before November 30 of any year, the certificate of exemption is cancelled as of December 31 of that year. Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

- (a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter;
- (b) The fee required to renew the certificate of exemption; and
- (c) Except as otherwise provided in this section, a reinstatement fee of not more than \$100.

5. Except as otherwise provided in this section, a person must pay the following fees to apply for, to be issued or to renew a license as a mortgage broker pursuant to this chapter:

- (a) To file an original application for a license, not more than \$1,500 for the principal office and not more than \$40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, not more than \$1,000 for the principal office and not more than \$60 for each branch office.

(c) To renew a license, not more than \$500 for the principal office and not more than \$100 for each branch office.

6. Except as otherwise provided in this section, a person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, not more than \$200.

(b) To renew a certificate of exemption, not more than \$100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of not more than \$10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

9. The Commissioner may, by regulation, ~~increase~~ adjust any fee set forth in this section if the Commissioner determines that such an ~~increase~~ adjustment is necessary for the Commissioner to carry out his duties pursuant to this chapter. The amount of any ~~increase~~ adjustment in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his duties pursuant to this chapter.

**Sec. 4.8. NRS 645B.051 is hereby amended to read as follows:**

645B.051 1. Except as otherwise provided in this section, in addition to the requirements set forth in NRS 645B.050, to renew a license as a mortgage broker:

(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

2. The Commissioner may provide by regulation that ~~any~~, if a person attends more than 10 hours of ~~a certified course~~ certified courses of continuing education ~~attended~~ during a 12-month period, ~~but not needed~~ the extra hours may be used to satisfy ~~a requirement set forth in this section~~ the requirement for the immediately following 12-month period ~~in which the course was taken, may be used to satisfy a requirement set forth in this section for a later 12-month period.~~ and for that immediately following 12-month period only.

3. As used in this section, “certified course of continuing education” means a course of continuing education which relates to the mortgage industry or mortgage transactions and which ~~is certified by~~

~~(a) The National Association of Mortgage Brokers or any successor in interest to that organization; or~~

~~(b) Any organization designated for this purpose by the Commissioner by regulation.~~ **meets the requirements set forth by the Commissioner by regulation pursuant to section 1.8 of this act.**

Sec. 5. NRS 645B.060 is hereby amended to read as follows:

645B.060 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage brokers and mortgage agents doing business in this State.

2. In addition to the other duties imposed upon him by law, the Commissioner shall:

(a) Adopt *regulations*:

*(1) Setting forth the requirements for an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property. The regulations must include, without limitation, the minimum financial conditions that the investor must comply with before ~~and after~~ becoming an investor.*

*(2) Establishing reasonable limitations and guidelines on loans made by a mortgage broker to a director, officer, mortgage agent or employee of the mortgage broker.*

(b) Adopt any *other* regulations that are necessary to carry out the provisions of this chapter, except as to loan brokerage fees.

~~{(b)}~~ (c) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

~~{(c)}~~ ~~(d) {Conduct}~~ **Except as otherwise provided in subsection 4, conduct** an annual examination of each mortgage broker doing business in this State. The annual examination must include, without limitation, a formal exit review with the mortgage broker. The Commissioner shall adopt regulations prescribing:

(1) Standards for determining the rating of each mortgage broker based upon the results of the annual examination; and

(2) Procedures for resolving any objections made by the mortgage broker to the results of the annual examination. The results of the annual examination may not be opened to public inspection pursuant to NRS 645B.090 until any objections made by the mortgage broker have been decided by the Commissioner.

~~{(d)}~~ (e) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary ~~and proper~~ for the efficient administration of the laws of this State regarding mortgage brokers and mortgage agents. The Commissioner shall adopt regulations specifying the

general guidelines that will be followed when a periodic or special audit of a mortgage broker is conducted pursuant to this chapter.

~~{{e}}~~ (f) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by:

- (1) The Legislative Auditor; or
- (2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.

~~{{f}}~~ (g) Conduct such examinations and investigations as are necessary to ensure that mortgage brokers and mortgage agents meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.

3. For each special audit, investigation or examination, a mortgage broker or mortgage agent shall pay a fee based on the rate established pursuant to NRS 645F.280.

**4. The Commissioner may conduct biennial examinations of a mortgage broker instead of annual examinations, as described in paragraph (d) of subsection 2, if the mortgage broker:**

**(a) Received a rating in the last annual examination that meets a threshold determined by the Commissioner;**

**(b) Has not had any adverse change in financial condition since the last annual examination, as shown by financial statements of the mortgage broker;**

**(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division; and**

**(d) Does not maintain any trust accounts pursuant to NRS 645B.170 or 645B.175 or arrange loans funded by private investors.**

**Sec. 5.3. NRS 645B.085 is hereby amended to read as follows:**

645B.085 1. Except as otherwise provided in this section, not later than ~~190~~ **120** days after the last day of each fiscal year for a mortgage broker, the mortgage broker shall submit to the Commissioner a financial statement that:

- (a) Is dated not earlier than the last day of the fiscal year; and
- (b) Has been prepared from the books and records of the mortgage broker by an independent public accountant who holds a permit to engage in the practice of public accounting in this State that has not been revoked or suspended.

2. The Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage broker requests such an extension before the date on which the financial statement is due.

3. If a mortgage broker maintains any accounts described in subsection 1 of NRS 645B.175, the financial statement submitted pursuant to this section must be audited. If a mortgage broker maintains any accounts described in subsection 4 of NRS 645B.175, those accounts must be audited. The public

accountant who prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that he submits the report to the mortgage broker.

4. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3.

**Sec. 5.6. NRS 645B.175 is hereby amended to read as follows:**

645B.175 1. Except as otherwise provided in this section, all money received by a mortgage broker and his mortgage agents from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property must:

(a) Be deposited in:

(1) An insured depository financial institution; or

(2) An escrow account which is controlled by a person who is independent of the parties and subject to instructions regarding the account which are approved by the parties.

(b) Be kept separate from money:

(1) Belonging to the mortgage broker in an account appropriately named to indicate that the money does not belong to the mortgage broker.

(2) Received pursuant to subsection 4.

2. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 1 must be released:

(a) Upon completion of the loan, including proper recordation of the respective interests or release, or upon completion of the transfer of the ownership or beneficial interest therein, to the debtor or his designee less the amount due the mortgage broker for the payment of any fee or service charge;

(b) If the loan or the transfer thereof is not consummated, to each investor who furnished the money held in trust; or

(c) Pursuant to any instructions regarding the escrow account.

3. The amount held in trust pursuant to subsection 1 must not be released to the debtor or his designee unless:

(a) The amount released is equal to the total amount of money which is being loaned to the debtor for that loan, less the amount due the mortgage broker for the payment of any fee or service charge; and

(b) The mortgage broker has provided a written instruction to a title agent or title insurer requiring that a lender's policy of title insurance or appropriate title endorsement, which names as an insured each investor who owns a beneficial interest in the loan, be issued for the real property securing the loan.

4. Except as otherwise provided in this section, all money paid to a mortgage broker and his mortgage agents by a person in full or in partial payment of a loan secured by a lien on real property, must:

(a) Be deposited in:

(1) An insured depository financial institution; or

(2) An escrow account which is controlled by a person who is subject to instructions regarding the account which are approved by the parties.

(b) Be kept separate from money:

(1) Belonging to the mortgage broker in an account appropriately named to indicate that it does not belong to the mortgage broker.

(2) Received pursuant to subsection 1.

5. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 4:

(a) Must be released, upon the deduction and payment of any fee or service charge due the mortgage broker, to each investor who owns a beneficial interest in the loan in exact proportion to the beneficial interest that he owns in the loan; and

(b) Must not be released, in any proportion, to an investor who owns a beneficial interest in the loan, unless the amount described in paragraph (a) is also released to every other investor who owns a beneficial interest in the loan.

6. An investor may waive, in writing, the right to receive one or more payments, or portions thereof, that are released to other investors in the manner set forth in subsection 5. A mortgage broker or mortgage agent shall not act as the attorney-in-fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection. Any such written waiver applies only to the payment or payments, or portions thereof, that are included in the written waiver and does not affect the right of the investor to:

(a) Receive the waived payment or payments, or portions thereof, at a later date; or

(b) Receive all other payments in full and in accordance with the provisions of subsection 5.

7. Upon reasonable notice, any mortgage broker described in this section shall:

(a) Account to any investor or debtor who has paid to the mortgage broker or his mortgage agents money that is required to be deposited in a trust account pursuant to this section; and

(b) Account to the Commissioner for all money which the mortgage broker and his mortgage agents have received from each investor or debtor and which the mortgage broker is required to deposit in a trust account pursuant to this section.

8. Money received by a mortgage broker and his mortgage agents pursuant to this section from a person who is not associated with the mortgage broker may be held in trust for not more than 45 days before an escrow account must be opened in connection with the loan. If, within this 45-day period, the loan or the transfer therefor is not consummated, the money must be returned within 24 hours. If the money is so returned, it may not be reinvested with the mortgage broker for at least 15 days.

9. If a mortgage broker or a mortgage agent receives any money pursuant to this section, the mortgage broker or mortgage agent, after the deduction

and payment of any fee or service charge due the mortgage broker, shall not release the money to:

(a) Any person who does not have a contractual or legal right to receive the money; or

(b) Any person who has a contractual right to receive the money if the mortgage broker or mortgage agent knows or, in light of all the surrounding facts and circumstances, reasonably should know that the person's contractual right to receive the money violates any provision of this chapter or a regulation adopted pursuant to this chapter.

**10. If a mortgage broker maintains any accounts described in subsection 1 or subsection 4, the mortgage broker shall, in addition to the annual financial statement audited pursuant to NRS 645B.085, submit to the Commissioner each 6 calendar months a financial statement concerning those trust accounts.**

**11. The Commissioner shall adopt regulations concerning the form and content required for financial statements submitted pursuant to subsection 10.**

**Sec. 5.9. NRS 645B.189 is hereby amended to read as follows:**

645B.189 1. If, in carrying on his business, a mortgage broker uses an advertisement that is designed, intended or reasonably likely to solicit money from private investors, the mortgage broker shall include in each such advertisement a statement of disclosure in substantially the following form: Money invested through a mortgage broker is not guaranteed to earn any interest or return and is not insured.

2. A mortgage broker shall include in each advertisement that the mortgage broker uses in carrying on his business any statements of disclosure required pursuant to the regulations adopted by the Commissioner or required pursuant to an order of the Commissioner entered in accordance with subsections 7 and 8 of NRS 645B.185.

3. Each mortgage broker **who has received his initial license within the past 12 months** shall submit any proposed advertisement that the mortgage broker intends to use in carrying on his business to the Commissioner for approval.

4. In addition to the requirements set forth in this chapter, each advertisement that a mortgage broker uses in carrying on his business must comply with the requirements of:

(a) NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices; and

(b) Any applicable federal statute or regulation concerning deceptive advertising and the advertising of interest rates.

5. If a mortgage broker violates any provision of NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices or any federal statute or regulation concerning deceptive advertising or the advertising of interest rates, in addition to any sanction or penalty imposed by state or federal law upon the mortgage broker for the violation, the Commissioner

may take any disciplinary action set forth in subsection 2 of NRS 645B.670 against the mortgage broker.

6. The Commissioner may adopt any regulations that are necessary to carry out the provisions of this section.

Sec. 6. NRS 645B.310 is hereby amended to read as follows:

645B.310 A mortgage broker shall not assign all or a part of his interest in a loan secured by a lien on real property, unless the mortgage broker:

1. Obtains a policy of title insurance for the real property; ~~and~~
2. ***Obtains the approval of the assignment from each investor who has acquired ownership of or a beneficial interest in the loan if, at the time of the assignment, the debtor on the loan has defaulted in making a payment required for the loan or any portion of the loan; and***
3. Records the assignment in the office of the county recorder of the county in which the real property is located.

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. ~~[Chapter 645E of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. A mortgage banker shall ensure that:~~

~~(a) Each loan secured by a lien on real property for which he engages in activity as a mortgage banker includes a fee for servicing the loan which must be specified in the loan. The fee must be in an amount reasonably necessary to pay the cost of servicing the loan.~~

~~(b) All money paid to the mortgage banker for servicing such a loan must be deposited in an insured depository financial institution and kept separate, distinct and apart from money belonging to the mortgage banker. Such money, when deposited, is to be deposited under an appropriate name indicating that the accounts are not the money of the mortgage banker.~~

~~2. A mortgage banker has a fiduciary duty to each debtor with respect to the money in a trust account maintained pursuant to subsection 1.~~

~~3. A mortgage banker shall, upon reasonable notice, account to any debtor whose real property secures a loan arranged by the mortgage banker for any money which that person has paid to the mortgage banker for the cost of servicing a loan.~~

~~4. A mortgage banker shall submit to the Commissioner each calendar quarter a financial statement concerning the trust accounts established and maintained pursuant to subsection 1.~~

~~5. A mortgage banker shall annually review a trust account and, within 30 days after the completion of the annual review, notify the debtor:~~

~~(a) Of the amount by which the contributions exceed the amount reasonably necessary to pay the annual cost of servicing the loan; and~~

~~(b) That the debtor may specify the disposition of the excess money within 20 days after receipt of the notice. If the debtor fails to specify such a disposition within that time, the mortgage banker shall maintain the excess money in the trust account.]~~ (Deleted by amendment.)



Sec. 10. NRS 645E.150 is hereby amended to read as follows:

645E.150 Except as otherwise provided in NRS 645E.160, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, consumer finance companies, industrial loan companies, credit unions, thrift companies or insurance companies, ~~unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.~~ **including, without limitation, ~~an affiliate,~~ a subsidiary or a holding company of such a bank, company, association or union.**

2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his duties as an attorney at law.

5. A real estate broker rendering services in the performance of his duties as a real estate broker.

6. Any person doing any act under an order of any court.

7. Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his own account, unless such a person makes a loan secured by a lien on real property using his own money and assigns all or a part of his interest in the loan to another person, other than his spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

8. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.

9. A seller of real property who offers credit secured by a mortgage of the property sold.

**Sec. 10.4. NRS 645E.160 is hereby amended to read as follows:**

645E.160 1. ~~1A~~ **Except as otherwise provided in subsection 2, a** person who claims an exemption from the provisions of this chapter pursuant to subsection 1 of NRS 645E.150 must:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645E.280; ~~and~~

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645E.150 ~~1A~~; **and**

**(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his business and such license is in good standing pursuant to the laws of this State, any other state or the United States.**

**2. The provisions of subsection 1 do not apply to the extent preempted by federal law.**

**3.** The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to 9, inclusive, of NRS 645E.150 to:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645E.280; and

(c) Include with the written application satisfactory proof that the person meets the requirements of at least one of those exemptions.

~~{3}~~ **4.** A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one exemption set forth in the provisions of NRS 645E.150.

~~{4}~~ **5.** If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage banker or otherwise engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage banker unless the person applies for and is issued:

(a) A license as a mortgage banker pursuant to this chapter; or

(b) Another certificate of exemption.

~~{5}~~ **6.** The Commissioner may impose upon a person who is required to apply for a certificate of exemption or who holds a certificate of exemption an administrative fine of not more than \$10,000 for each violation that he commits, if the person:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by him, would have rendered the person ineligible to hold a certificate of exemption; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.

**Sec. 10.8. NRS 645E.280 is hereby amended to read as follows:**

645E.280 1. A license issued to a mortgage banker pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a license, the licensee must submit to the Commissioner on or before December 31 of each year:

(a) An application for renewal that complies with the requirements of this chapter; and

(b) The fee required to renew the license pursuant to this section.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before December 31 of any year, the license is cancelled. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the license pursuant to this section; and

(c) A reinstatement fee of not more than \$200.

3. Except as otherwise provided in NRS 645E.160, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before December 31 of each year:

(a) An application for renewal that complies with the requirements of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before December 31 of any year, the certificate of exemption is cancelled. Except as otherwise provided in NRS 645E.160, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) A reinstatement fee of not more than \$100.

5. A person must pay the following fees to apply for, to be issued or to renew a license as a mortgage banker pursuant to this chapter:

(a) To file an original application for a license, not more than \$1,500 for the principal office and not more than \$40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, not more than \$1,000 for the principal office and not more than \$60 for each branch office.

(c) To renew a license, not more than \$500 for the principal office and not more than \$100 for each branch office.

6. A person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, not more than \$200.

(b) To renew a certificate of exemption, not more than \$100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of not more than \$10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

9. The Commissioner may, by regulation, adjust any fee set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his duties pursuant to this chapter. The amount of any adjustment in a fee pursuant to this subsection

**must not exceed the amount determined to be necessary for the Commissioner to carry out his duties pursuant to this chapter.**

Sec. 11. NRS 645E.300 is hereby amended to read as follows:

645E.300 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage bankers doing business in this State.

2. In addition to the other duties imposed upon him by law, the Commissioner shall:

(a) Adopt **regulations establishing reasonable limitations and guidelines on loans made by a mortgage banker to a director, officer or employee of the mortgage banker.**

(b) Adopt any *other* regulations that are necessary to carry out the provisions of this chapter, except as to loan fees.

~~{{(b)}}~~ (c) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

~~{{(c)}}~~ (d) ~~Conduct~~ **Except as otherwise provided in subsection 4, conduct** an annual examination of each mortgage banker doing business in this State.

~~{{(d)}}~~ (e) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary ~~and proper~~ for the efficient administration of the laws of this State regarding mortgage bankers.

~~{{(e)}}~~ (f) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by:

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.

~~{{(f)}}~~ (g) Conduct such examinations and investigations as are necessary to ensure that mortgage bankers meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.

3. For each special audit, investigation or examination, a mortgage banker shall pay a fee based on the rate established pursuant to NRS 645F.280.

**4. The Commissioner may conduct biennial examinations of a mortgage banker instead of annual examinations, as described in paragraph (d) of subsection 2, if the mortgage banker:**

**(a) Received a rating in the last annual examination that meets a threshold determined by the Commissioner;**

**(b) Has not had any adverse change in financial condition since the last annual examination, as shown by financial statements of the mortgage banker; and**

**(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division.**

**Sec. 11.5. NRS 645E.360 is hereby amended to read as follows:**

645E.360 1. Except as otherwise provided in this section, not later than ~~160~~ **120** days after the last day of each fiscal year for a mortgage banker, the mortgage banker shall submit to the Commissioner a financial statement that:

- (a) Is dated not earlier than the last day of the fiscal year; and
- (b) Has been prepared from the books and records of the mortgage banker by an independent public accountant who holds a permit to engage in the practice of public accounting in this State that has not been revoked or suspended.

2. The Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage banker requests such an extension before the date on which the financial statement is due.

3. If a mortgage banker maintains any accounts described in NRS 645E.430, the financial statement submitted pursuant to this section must be audited. The public accountant who prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that he submits the report to the mortgage banker.

4. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3.

Sec. 12. (Deleted by amendment.)

**Sec. 12.4. NRS 80.015 is hereby amended to read as follows:**

80.015 1. For the purposes of this chapter, the following activities do not constitute doing business in this State:

- (a) Maintaining, defending or settling any proceeding;
- (b) Holding meetings of the board of directors or stockholders or carrying on other activities concerning internal corporate affairs;
- (c) Maintaining accounts in banks or credit unions;
- (d) Maintaining offices or agencies for the transfer, exchange and registration of the corporation's own securities or maintaining trustees or depositaries with respect to those securities;
- (e) Making sales through independent contractors;
- (f) Soliciting or receiving orders outside of this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside of this State and filling them by shipping goods into this State;
- (g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;
- (h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;
- (i) Owning, without more, real or personal property;
- (j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;

(k) The production of motion pictures as defined in NRS 231.020;  
 (l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and

(m) Transacting business in interstate commerce.

2. The list of activities in subsection 1 is not exhaustive.

3. A person who is not doing business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, chapter 645A, 645B or 645E of NRS or title 55 or 56 of NRS unless he:

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

(b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS; ~~for~~

(c) Solicits business for the activities of a mortgage broker as defined by NRS 645B.0127 or the activities of a mortgage banker as defined by NRS 645E.100; or

(d) Arranges a mortgage loan secured by real property which is not commercial property as defined by NRS 645E.040.

4. The fact that a person is not doing business in this State within the meaning of this section:

(a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and

(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not doing business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.

5. As used in this section and for the purposes of NRS 80.016, "deposits" means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

**Sec. 12.8. 1. Any person who received or will receive a mortgage agent license between October 1, 2004, and June 30, 2008, must fulfill the requirements of section 1.4 of this act before January 1, 2009, in the same manner as a person obtaining an initial license. If the person who received a mortgage agent license between October 1, 2004, and June 30, 2008, does not do so, the license of that person is suspended until he does so.**

**2. Any natural person who received or will receive a mortgage broker license or an initial designation as a qualified employee by a mortgage broker between October 1, 2005, and June 30, 2008, must fulfill the requirements of section 1.4 of this act before January 1, 2009, in the same manner as a natural person obtaining an initial license. If**

the natural person who received a mortgage broker license or was initially designated as the qualified employee by a mortgage broker between October 1, 2005, and June 30, 2008, does not do so, the license of that natural person is suspended until he does so.

Sec. 13. **1.** This ~~act becomes~~ **section, section 1 and sections 2 to 12.4, inclusive, of this act become** effective upon passage and approval for the purpose of adopting regulations and on October 1, 2007, for all other purposes.

**2. Sections 1.4, 1.6, 1.8 and 12.8 of this act become effective:**

**(a) Upon passage and approval for purpose of adopting regulations, administering examinations as set forth in section 1.4 of this act and approving courses of continuing education as set forth in section 1.8 of this act; and**

**(b) On July 1, 2008, for all other purposes.**

Assemblyman Ocegüera moved that the Assembly concur in the Senate Amendment No. 896 to Assembly Bill No. 375.

Remarks by Assemblyman Ocegüera.

Motion carried.

The following Senate amendment was read:

Amendment No. 1029.

AN ACT relating to loans; creating various education and examination requirements related to an initial license as a mortgage broker or mortgage agent; requiring the designation of a qualified employee for certain mortgage brokers; creating certain requirements related to continuing education and mortgage lending; creating certain requirements for fees associated with loans secured by liens on real property; providing for certain requirements related to mortgage brokers and broker-dealers, sales representatives, investment advisers and representatives of investment advisers; revising the possible range of certain fees related to a license as a mortgage broker; revising the apportionment of certain extra hours of continuing education earned by a mortgage broker; requiring the Commissioner of Mortgage Lending to adopt certain regulations concerning investors and limitations on loans to directors, officers and employees; providing for biennial examinations of certain mortgage brokers under various circumstances; revising the deadline for certain financial statements by a mortgage broker; creating requirements for new financial statements related to certain accounts of a mortgage broker; revising certain advertising requirements of a mortgage broker; prohibiting a mortgage broker from assigning all or part of his interest in a loan that is secured by a lien on real property under certain circumstances; revising certain provisions ~~related~~ **relating** to persons not subject to chapter 645E of NRS; revising certain provisions ~~related~~ **relating** to persons exempt from chapter 645E of NRS; revising the possible range of fees for a license as a mortgage banker; revising provisions ~~related~~ **relating** to financial statements of a mortgage banker; revising provisions ~~related~~ **relating** to foreign corporations and what constitutes doing business in this

State; requiring certain present and future mortgage broker and mortgage agent licensees to meet certain requirements; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law regulates the activities of various mortgage lenders, including the activities of mortgage brokers and mortgage bankers. (Chapters 645B and 645E of NRS) Existing law further provides that, subject to administrative supervision by the Director of the Department of Business and Industry, the Commissioner of Mortgage Lending is required to administer the provisions of law governing the licensing and regulation of mortgage brokers and mortgage bankers. (NRS 645B.060, 645E.300, 645F.250)

Section 1.4 of this bill revises the requirements for an initial license as a mortgage broker or mortgage agent regarding education on mortgage lending and applicable examinations.

Section 1.6 of this bill requires that a qualified employee be designated by a mortgage broker who is not a natural person.

Section 1.8 of this bill revises provisions concerning the requirements that a course of continuing education must meet, including, without limitation, requirements relating to providers and instructors, records, approval and revocation of approval of courses, monitoring, disciplinary action, and participation by representatives of the mortgage lending industry in the creation of the requirements.

Section 2 of this bill requires a mortgage broker to ensure that each loan secured by a lien on real property for which the mortgage broker engages in activity as a mortgage broker includes a reasonable fee for servicing the loan.

Section 3 of this bill prohibits a mortgage broker who is licensed or exempt from licensing as a broker-dealer, sales representative, investment adviser or representative of an investment adviser under the laws of this State from commingling money received from mortgage transactions with money received from securities transactions.

Existing law **exempts certain banks, companies, associations and credit unions from the provisions governing mortgage brokers and mortgage agents. (NRS 645B.015) Section 4.1 of this bill clarifies that the exemption includes an operating subsidiary or holding company of such a bank, company, association or credit union. Section 4.2 of this bill requires a person who claims an exemption to provide evidence to the Commissioner that the person is licensed to conduct his business and that the license is in good standing.**

**Existing law** describes various fees ~~related~~ **relating** to a license as a mortgage broker. (NRS 645B.050) Section 4.4 of this bill revises the range of fees that may be charged for a license as a mortgage broker.

Existing law describes various continuing education requirements for a mortgage broker. (NRS 645B.051) Section 4.8 of this bill revises how various extra hours of continuing education that are earned by a mortgage broker may be apportioned by the Commissioner.



Existing law defines an “investor” for purposes of chapter 645B of NRS to mean a person who wishes to acquire or who acquires ownership of or a beneficial interest in a loan that is secured by a lien on real property. (NRS 645B.0121) Section 5 of this bill requires the Commissioner to establish, by regulation, the financial conditions for an investor to acquire that ownership or beneficial interest in the loan.

Existing law authorizes the Commissioner of Financial Institutions to establish limitations on loans made by a bank to its directors, officers or employees. (NRS 662.145) Section 5 of this bill requires the Commissioner of Mortgage Lending to establish similar limitations on loans made by mortgage brokers to directors, officers or employees of the mortgage broker. (NRS 645B.060)

Existing law provides for annual examinations of mortgage brokers. (NRS 645B.060) Section 5 of this bill provides for biennial examinations of a mortgage broker, rather than annual examinations, in certain circumstances.

Existing law provides for a mortgage broker to submit a financial statement to the Commissioner at the end of each fiscal year. (NRS 645B.085) Section 5.3 of this bill changes the deadline for this financial statement.

Existing law provides for requirements related to accounts for certain money received in relation to various loans secured by liens on real property. (NRS 645B.175) Section 5.6 of this bill requires the submission every 6 months of a new financial statement for such accounts.

Existing law provides for certain advertising requirements for mortgage brokers. (NRS 645B.189) Section 5.9 of this bill revises those requirements to require only those mortgage brokers who have received an initial license in the last 12 months to submit advertisements for the Commissioner’s approval.

Existing law prohibits a mortgage broker from assigning his interest in a loan that is secured by a lien on real property unless the mortgage broker obtains title insurance for the property and records the assignment in the county recorder’s office of the county in which the property is located. (NRS 645B.310) Section 6 of this bill requires the mortgage broker also to obtain the approval of each investor in the loan if, at the time of the assignment, the debtor on the loan is in default on his loan payments.

Existing law provides for persons who are not subject to chapter 645E of NRS. ~~(Section)~~ **Similar to the clarification made in section 4.1 of this bill, section 10** of this bill clarifies which subsidiaries or holding companies are not subject to that chapter.

Existing law provides for the requirements that a person must meet to claim an exemption from the provisions of chapter 645E of NRS. (NRS 645E.160) ~~(Section)~~ **Similar to the changes made in section 4.2 of this bill, section 10.4** of this bill revises the requirements in regards to those who hold certain licenses and in regards to federal law.

Existing law provides for various fees related to a license as a mortgage banker. (NRS 645E.280) Section 10.8 of this bill revises the range of fees that may be charged for a license as a mortgage banker.

Existing law authorizes the Commissioner of Financial Institutions to establish limitations on loans made by a bank to its directors, officers or employees. (NRS 662.145) Section 11 of this bill requires the Commissioner of Mortgage Lending to establish similar limitations on loans made by mortgage bankers to directors, officers or employees of the mortgage banker. (NRS 645E.300)

Existing law provides for a mortgage banker to submit a financial statement to the Commissioner at the end of each fiscal year. (NRS 645E.360) Section 11.5 of this bill changes the deadline for this financial statement.

Existing law provides for the regulation of foreign corporations. (Chapter 80 of NRS) Section 12.4 of this bill revises the definition of what constitutes doing business in this State relating to foreign corporations and regarding the activities of a mortgage broker or a mortgage banker or arranging a mortgage loan that is not secured by commercial property.

Section 12.8 of this bill requires certain present and future holders of a license as a mortgage agent or mortgage broker or a designation as a qualified employee to meet various requirements contained in this bill.

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

Section 1. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections 1.4 to 3, inclusive, of this act.

Sec. 1.4. **1. *In addition to any other requirements provided by this chapter, a person who wishes to receive an initial license as a mortgage broker or mortgage agent must:***

***(a) Complete education on mortgage lending as required by this chapter; or***

***(b) Successfully pass a written examination as determined by the Division.***

**2. *If the applicant for an initial license as a mortgage broker is not a natural person, the applicant must designate a natural person to be the qualified employee of the applicant and meet the requirements of subsection 1.***

**3. *The Division:***

***(a) May hire a testing organization to create, administer and score a written examination; and***

***(b) May create waivers for a written examination.***

**4. *The Commissioner may adopt regulations to carry out the provisions of this section, including, without limitation, regulations relating to the content of a written examination, the scoring of a written examination or any possible waivers of a written examination.***

Sec. 1.6. 1. *If a mortgage broker is not a natural person, the mortgage broker must designate a natural person as a qualified employee to act on behalf of the mortgage broker.*

2. *The Division shall adopt regulations regarding a qualified employee, including, without limitation, regulations that establish:*

- (a) A definition for the term “qualified employee”;*
- (b) Any duties of a qualified employee; and*
- (c) Any requirements regarding a qualified employee.*

Sec. 1.8. 1. *A course of continuing education that is required pursuant to chapter 645B of NRS must meet the requirements set forth by the Commissioner by regulation.*

2. *The Commissioner shall adopt regulations:*

*(a) Relating to the requirements for courses of continuing education, including, without limitation, regulations relating to the providers and instructors of such courses, records kept for such courses, approval and revocation of approval of such courses, monitoring of such courses and disciplinary action taken regarding such courses.*

*(b) Allowing for the participation of representatives of the mortgage lending industry pertaining to the creation of regulations regarding such courses.*

Sec. 2. *A mortgage broker shall ensure that each loan secured by a lien on real property for which he engages in activity as a mortgage broker includes a fee for servicing the loan which must be specified in the loan. The fee must be in an amount reasonably necessary to pay the cost of servicing the loan.*

Sec. 3. 1. *A mortgage broker who is a broker-dealer or a sales representative licensed pursuant to NRS 90.310 or who is exempt from licensure pursuant to NRS 90.320:*

*(a) Shall not commingle money received for mortgage transactions and money received for securities transactions; and*

*(b) Shall ensure that all money received for mortgage transactions is accounted for separately from all money received for securities transactions.*

2. *A mortgage broker who is an investment adviser or a representative of an investment adviser licensed pursuant to NRS 90.330 or exempt from licensure pursuant to NRS 90.340:*

*(a) Shall not commingle money received for mortgage transactions and money received for securities transactions; and*

*(b) Shall ensure that all money received for mortgage transactions is accounted for separately from all money received for securities transactions.*

Sec. 4. (Deleted by amendment.)

**Sec. 4.1. NRS 645B.015 is hereby amended to read as follows:**

645B.015 Except as otherwise provided in NRS 645B.016, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, consumer finance companies, industrial loan companies, credit unions, thrift companies or insurance companies, ~~unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.~~ including, without limitation, a subsidiary or a holding company of such a bank, company, association or union.

2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his duties as an attorney at law.

5. A real estate broker rendering services in the performance of his duties as a real estate broker.

6. Any person doing any act under an order of any court.

7. Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his own account, unless such a person makes a loan secured by a lien on real property using his own money and assigns all or a part of his interest in the loan to another person, other than his spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

8. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.

9. A seller of real property who offers credit secured by a mortgage of the property sold.

**Sec. 4.2. NRS 645B.016 is hereby amended to read as follows:**

645B.016 Except as otherwise provided in NRS 645B.690 ~~and~~ subsection 2:

1. A person who claims an exemption from the provisions of this chapter pursuant to subsection 1 of NRS 645B.015 must:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645B.050; ~~and~~

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645B.015 ~~and~~ and

(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his business and such license is in good standing pursuant to the laws of this State, any other state or the United States.

2. The provisions of subsection 1 do not apply to the extent preempted by federal law.

3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to 9, inclusive, of NRS 645B.015 to:

- (a) File a written application for a certificate of exemption with the Office of the Commissioner;
- (b) Pay the fee required pursuant to NRS 645B.050; and
- (c) Include with the written application satisfactory proof that the person meets the requirements of at least one of those exemptions.

~~3.~~ 4. A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one exemption set forth in the provisions of NRS 645B.015.

~~4.~~ 5. If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage broker or mortgage agent or otherwise engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage broker or mortgage agent unless the person applies for and is issued:

- (a) A license as a mortgage broker or mortgage agent, as applicable, pursuant to this chapter; or
- (b) Another certificate of exemption.

~~5.~~ 6. The Commissioner may impose upon a person who is required to apply for a certificate of exemption or who holds a certificate of exemption an administrative fine of not more than \$10,000 for each violation that he commits, if the person:

- (a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;
- (b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by him, would have rendered the person ineligible to hold a certificate of exemption; or
- (c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.

Sec. 4.4. NRS 645B.050 is hereby amended to read as follows:

645B.050 1. A license as a mortgage broker issued pursuant to this chapter expires each year on June 30, unless it is renewed. To renew such a license, the licensee must submit to the Commissioner on or before May 31 of each year:

- (a) An application for renewal;
- (b) The fee required to renew the license pursuant to this section;
- (c) The information required pursuant to NRS 645B.051; and
- (d) All information required to complete the renewal.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before May 31 of any year, the license is cancelled as of June 30 of that year. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

- (a) An application for renewal;
- (b) The fee required to renew the license pursuant to this section;
- (c) The information required pursuant to NRS 645B.051;
- (d) Except as otherwise provided in this section, a reinstatement fee of ***not more than*** \$200; and
- (e) All information required to complete the reinstatement.

3. Except as otherwise provided in NRS 645B.016, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before November 30 of each year:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before November 30 of any year, the certificate of exemption is cancelled as of December 31 of that year. Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) Except as otherwise provided in this section, a reinstatement fee of ***not more than*** \$100.

5. Except as otherwise provided in this section, a person must pay the following fees to apply for, to be issued or to renew a license as a mortgage broker pursuant to this chapter:

(a) To file an original application for a license, ***not more than*** \$1,500 for the principal office and ***not more than*** \$40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, ***not more than*** \$1,000 for the principal office and ***not more than*** \$60 for each branch office.

(c) To renew a license, ***not more than*** \$500 for the principal office and ***not more than*** \$100 for each branch office.

6. Except as otherwise provided in this section, a person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, ***not more than*** \$200.

(b) To renew a certificate of exemption, ***not more than*** \$100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of ***not more than*** \$10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

9. The Commissioner may, by regulation, ~~increase~~ **adjust** any fee set forth in this section if the Commissioner determines that such an ~~increase~~ **adjustment** is necessary for the Commissioner to carry out his duties pursuant to this chapter. The amount of any ~~increase~~ **adjustment** in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his duties pursuant to this chapter.

Sec. 4.8. NRS 645B.051 is hereby amended to read as follows:

645B.051 1. Except as otherwise provided in this section, in addition to the requirements set forth in NRS 645B.050, to renew a license as a mortgage broker:

(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

2. The Commissioner may provide by regulation that ~~any~~, **if a person attends more than 10** hours of ~~a certified course~~ **certified courses** of continuing education ~~attended~~ during a 12-month period, ~~but not needed~~ **the extra hours may be used** to satisfy ~~a requirement set forth in this section~~ **the requirement** for the **immediately following** 12-month period ~~in which the course was taken, may be used to satisfy a requirement set forth in this section for a later 12-month period.~~ **and for that immediately following 12-month period only.**

3. As used in this section, “certified course of continuing education” means a course of continuing education which relates to the mortgage industry or mortgage transactions and which ~~is certified by:~~

~~(a) The National Association of Mortgage Brokers or any successor in interest to that organization; or~~

~~(b) Any organization designated for this purpose by the Commissioner by regulation.~~ **meets the requirements set forth by the Commissioner by regulation pursuant to section 1.8 of this act.**

Sec. 5. NRS 645B.060 is hereby amended to read as follows:

645B.060 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage brokers and mortgage agents doing business in this State.

2. In addition to the other duties imposed upon him by law, the Commissioner shall:

(a) Adopt *regulations*:

*(1) Setting forth the requirements for an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property. The regulations must include, without limitation, the minimum financial conditions that the investor must comply with before becoming an investor.*

*(2) Establishing reasonable limitations and guidelines on loans made by a mortgage broker to a director, officer, mortgage agent or employee of the mortgage broker.*

(b) Adopt any *other* regulations that are necessary to carry out the provisions of this chapter, except as to loan brokerage fees.

~~[(b)]~~ (c) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

~~[(c)]~~ (d) ~~Conduct~~ **Except as otherwise provided in subsection 4, conduct** an annual examination of each mortgage broker doing business in this State. The annual examination must include, without limitation, a formal exit review with the mortgage broker. The Commissioner shall adopt regulations prescribing:

(1) Standards for determining the rating of each mortgage broker based upon the results of the annual examination; and

(2) Procedures for resolving any objections made by the mortgage broker to the results of the annual examination. The results of the annual examination may not be opened to public inspection pursuant to NRS 645B.090 until any objections made by the mortgage broker have been decided by the Commissioner.

~~[(d)]~~ (e) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary ~~and proper~~ for the efficient administration of the laws of this State regarding mortgage brokers and mortgage agents. The Commissioner shall adopt regulations specifying the general guidelines that will be followed when a periodic or special audit of a mortgage broker is conducted pursuant to this chapter.

~~[(e)]~~ (f) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by:

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.

~~[(f)]~~ (g) Conduct such examinations and investigations as are necessary to ensure that mortgage brokers and mortgage agents meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.



3. For each special audit, investigation or examination, a mortgage broker or mortgage agent shall pay a fee based on the rate established pursuant to NRS 645F.280.

*4. The Commissioner may conduct biennial examinations of a mortgage broker instead of annual examinations, as described in paragraph (d) of subsection 2, if the mortgage broker:*

*(a) Received a rating in the last annual examination that meets a threshold determined by the Commissioner;*

*(b) Has not had any adverse change in financial condition since the last annual examination, as shown by financial statements of the mortgage broker;*

*(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division; and*

*(d) Does not maintain any trust accounts pursuant to NRS 645B.170 or 645B.175 or arrange loans funded by private investors.*

Sec. 5.3. NRS 645B.085 is hereby amended to read as follows:

645B.085 1. Except as otherwise provided in this section, not later than ~~{90}~~ **120** days after the last day of each fiscal year for a mortgage broker, the mortgage broker shall submit to the Commissioner a financial statement that:

(a) Is dated not earlier than the last day of the fiscal year; and

(b) Has been prepared from the books and records of the mortgage broker by an independent public accountant who holds a permit to engage in the practice of public accounting in this State that has not been revoked or suspended.

2. The Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage broker requests such an extension before the date on which the financial statement is due.

3. If a mortgage broker maintains any accounts described in subsection 1 of NRS 645B.175, the financial statement submitted pursuant to this section must be audited. If a mortgage broker maintains any accounts described in subsection 4 of NRS 645B.175, those accounts must be audited. The public accountant who prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that he submits the report to the mortgage broker.

4. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3.

Sec. 5.6. NRS 645B.175 is hereby amended to read as follows:

645B.175 1. Except as otherwise provided in this section, all money received by a mortgage broker and his mortgage agents from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property must:

(a) Be deposited in:

(1) An insured depository financial institution; or

(2) An escrow account which is controlled by a person who is independent of the parties and subject to instructions regarding the account which are approved by the parties.

(b) Be kept separate from money:

(1) Belonging to the mortgage broker in an account appropriately named to indicate that the money does not belong to the mortgage broker.

(2) Received pursuant to subsection 4.

2. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 1 must be released:

(a) Upon completion of the loan, including proper recordation of the respective interests or release, or upon completion of the transfer of the ownership or beneficial interest therein, to the debtor or his designee less the amount due the mortgage broker for the payment of any fee or service charge;

(b) If the loan or the transfer thereof is not consummated, to each investor who furnished the money held in trust; or

(c) Pursuant to any instructions regarding the escrow account.

3. The amount held in trust pursuant to subsection 1 must not be released to the debtor or his designee unless:

(a) The amount released is equal to the total amount of money which is being loaned to the debtor for that loan, less the amount due the mortgage broker for the payment of any fee or service charge; and

(b) The mortgage broker has provided a written instruction to a title agent or title insurer requiring that a lender's policy of title insurance or appropriate title endorsement, which names as an insured each investor who owns a beneficial interest in the loan, be issued for the real property securing the loan.

4. Except as otherwise provided in this section, all money paid to a mortgage broker and his mortgage agents by a person in full or in partial payment of a loan secured by a lien on real property, must:

(a) Be deposited in:

(1) An insured depository financial institution; or

(2) An escrow account which is controlled by a person who is subject to instructions regarding the account which are approved by the parties.

(b) Be kept separate from money:

(1) Belonging to the mortgage broker in an account appropriately named to indicate that it does not belong to the mortgage broker.

(2) Received pursuant to subsection 1.

5. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 4:

(a) Must be released, upon the deduction and payment of any fee or service charge due the mortgage broker, to each investor who owns a beneficial interest in the loan in exact proportion to the beneficial interest that he owns in the loan; and

(b) Must not be released, in any proportion, to an investor who owns a beneficial interest in the loan, unless the amount described in paragraph (a) is also released to every other investor who owns a beneficial interest in the loan.

6. An investor may waive, in writing, the right to receive one or more payments, or portions thereof, that are released to other investors in the manner set forth in subsection 5. A mortgage broker or mortgage agent shall not act as the attorney-in-fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection. Any such written waiver applies only to the payment or payments, or portions thereof, that are included in the written waiver and does not affect the right of the investor to:

(a) Receive the waived payment or payments, or portions thereof, at a later date; or

(b) Receive all other payments in full and in accordance with the provisions of subsection 5.

7. Upon reasonable notice, any mortgage broker described in this section shall:

(a) Account to any investor or debtor who has paid to the mortgage broker or his mortgage agents money that is required to be deposited in a trust account pursuant to this section; and

(b) Account to the Commissioner for all money which the mortgage broker and his mortgage agents have received from each investor or debtor and which the mortgage broker is required to deposit in a trust account pursuant to this section.

8. Money received by a mortgage broker and his mortgage agents pursuant to this section from a person who is not associated with the mortgage broker may be held in trust for not more than 45 days before an escrow account must be opened in connection with the loan. If, within this 45-day period, the loan or the transfer therefor is not consummated, the money must be returned within 24 hours. If the money is so returned, it may not be reinvested with the mortgage broker for at least 15 days.

9. If a mortgage broker or a mortgage agent receives any money pursuant to this section, the mortgage broker or mortgage agent, after the deduction and payment of any fee or service charge due the mortgage broker, shall not release the money to:

(a) Any person who does not have a contractual or legal right to receive the money; or

(b) Any person who has a contractual right to receive the money if the mortgage broker or mortgage agent knows or, in light of all the surrounding facts and circumstances, reasonably should know that the person's contractual right to receive the money violates any provision of this chapter or a regulation adopted pursuant to this chapter.

**10. If a mortgage broker maintains any accounts described in subsection 1 or subsection 4, the mortgage broker shall, in addition to the annual financial statement audited pursuant to NRS 645B.085, submit to**

*the Commissioner each 6 calendar months a financial statement concerning those trust accounts.*

**11. The Commissioner shall adopt regulations concerning the form and content required for financial statements submitted pursuant to subsection 10.**

Sec. 5.9. NRS 645B.189 is hereby amended to read as follows:

645B.189 1. If, in carrying on his business, a mortgage broker uses an advertisement that is designed, intended or reasonably likely to solicit money from private investors, the mortgage broker shall include in each such advertisement a statement of disclosure in substantially the following form: Money invested through a mortgage broker is not guaranteed to earn any interest or return and is not insured.

2. A mortgage broker shall include in each advertisement that the mortgage broker uses in carrying on his business any statements of disclosure required pursuant to the regulations adopted by the Commissioner or required pursuant to an order of the Commissioner entered in accordance with subsections 7 and 8 of NRS 645B.185.

3. Each mortgage broker *who has received his initial license within the past 12 months* shall submit any proposed advertisement that the mortgage broker intends to use in carrying on his business to the Commissioner for approval.

4. In addition to the requirements set forth in this chapter, each advertisement that a mortgage broker uses in carrying on his business must comply with the requirements of:

(a) NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices; and

(b) Any applicable federal statute or regulation concerning deceptive advertising and the advertising of interest rates.

5. If a mortgage broker violates any provision of NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices or any federal statute or regulation concerning deceptive advertising or the advertising of interest rates, in addition to any sanction or penalty imposed by state or federal law upon the mortgage broker for the violation, the Commissioner may take any disciplinary action set forth in subsection 2 of NRS 645B.670 against the mortgage broker.

6. The Commissioner may adopt any regulations that are necessary to carry out the provisions of this section.

Sec. 6. NRS 645B.310 is hereby amended to read as follows:

645B.310 A mortgage broker shall not assign all or a part of his interest in a loan secured by a lien on real property, unless the mortgage broker:

1. Obtains a policy of title insurance for the real property; ~~and~~

2. ***Obtains the approval of the assignment from each investor who has acquired ownership of or a beneficial interest in the loan if, at the time of the assignment, the debtor on the loan has defaulted in making a payment required for the loan or any portion of the loan; and***

3. Records the assignment in the office of the county recorder of the county in which the real property is located.

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. NRS 645E.150 is hereby amended to read as follows:

645E.150 Except as otherwise provided in NRS 645E.160, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, consumer finance companies, industrial loan companies, credit unions, thrift companies or insurance companies, ~~{unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.}~~ **including, without limitation, a subsidiary or a holding company of such a bank, company, association or union.**

2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his duties as an attorney at law.

5. A real estate broker rendering services in the performance of his duties as a real estate broker.

6. Any person doing any act under an order of any court.

7. Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his own account, unless such a person makes a loan secured by a lien on real property using his own money and assigns all or a part of his interest in the loan to another person, other than his spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

8. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.

9. A seller of real property who offers credit secured by a mortgage of the property sold.

Sec. 10.4. NRS 645E.160 is hereby amended to read as follows:

645E.160 1. ~~{A}~~ **Except as otherwise provided in subsection 2, a** person who claims an exemption from the provisions of this chapter pursuant to subsection 1 of NRS 645E.150 must:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645E.280; ~~{and}~~

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645E.150 ~~[-]; and~~

*(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his business and such license is in good standing pursuant to the laws of this State, any other state or the United States.*

**2. The provisions of subsection 1 do not apply to the extent preempted by federal law.**

**3.** The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to 9, inclusive, of NRS 645E.150 to:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645E.280; and

(c) Include with the written application satisfactory proof that the person meets the requirements of at least one of those exemptions.

~~{3-}~~ **4.** A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one exemption set forth in the provisions of NRS 645E.150.

~~{4-}~~ **5.** If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage banker or otherwise engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage banker unless the person applies for and is issued:

(a) A license as a mortgage banker pursuant to this chapter; or

(b) Another certificate of exemption.

~~{5-}~~ **6.** The Commissioner may impose upon a person who is required to apply for a certificate of exemption or who holds a certificate of exemption an administrative fine of not more than \$10,000 for each violation that he commits, if the person:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by him, would have rendered the person ineligible to hold a certificate of exemption; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.

Sec. 10.8. NRS 645E.280 is hereby amended to read as follows:

645E.280 1. A license issued to a mortgage banker pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a license, the licensee must submit to the Commissioner on or before December 31 of each year:

(a) An application for renewal that complies with the requirements of this chapter; and

(b) The fee required to renew the license pursuant to this section.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before December 31 of any year, the license is cancelled. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the license pursuant to this section; and

(c) A reinstatement fee of *not more than* \$200.

3. Except as otherwise provided in NRS 645E.160, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before December 31 of each year:

(a) An application for renewal that complies with the requirements of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before December 31 of any year, the certificate of exemption is cancelled. Except as otherwise provided in NRS 645E.160, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) A reinstatement fee of *not more than* \$100.

5. A person must pay the following fees to apply for, to be issued or to renew a license as a mortgage banker pursuant to this chapter:

(a) To file an original application for a license, *not more than* \$1,500 for the principal office and *not more than* \$40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, *not more than* \$1,000 for the principal office and *not more than* \$60 for each branch office.

(c) To renew a license, *not more than* \$500 for the principal office and *not more than* \$100 for each branch office.

6. A person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, *not more than* \$200.

(b) To renew a certificate of exemption, *not more than* \$100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of *not more than* \$10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

**9. The Commissioner may, by regulation, adjust any fee set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his duties pursuant to this chapter. The amount of any adjustment in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his duties pursuant to this chapter.**

Sec. 11. NRS 645E.300 is hereby amended to read as follows:

645E.300 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage bankers doing business in this State.

2. In addition to the other duties imposed upon him by law, the Commissioner shall:

(a) Adopt ***regulations establishing reasonable limitations and guidelines on loans made by a mortgage banker to a director, officer or employee of the mortgage banker.***

(b) Adopt any ***other*** regulations that are necessary to carry out the provisions of this chapter, except as to loan fees.

~~{{(b)}} (c)~~ (c) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

~~{{(c)}} (d) Conduct~~ ***Except as otherwise provided in subsection 4, conduct*** an annual examination of each mortgage banker doing business in this State.

~~{{(d)}} (e)~~ (e) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary ~~and proper~~ for the efficient administration of the laws of this State regarding mortgage bankers.

~~{{(e)}} (f)~~ (f) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by:

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.

~~{{(f)}} (g)~~ (g) Conduct such examinations and investigations as are necessary to ensure that mortgage bankers meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.

3. For each special audit, investigation or examination, a mortgage banker shall pay a fee based on the rate established pursuant to NRS 645F.280.



**4. The Commissioner may conduct biennial examinations of a mortgage banker instead of annual examinations, as described in paragraph (d) of subsection 2, if the mortgage banker:**

**(a) Received a rating in the last annual examination that meets a threshold determined by the Commissioner;**

**(b) Has not had any adverse change in financial condition since the last annual examination, as shown by financial statements of the mortgage banker; and**

**(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division.**

Sec. 11.5. NRS 645E.360 is hereby amended to read as follows:

645E.360 1. Except as otherwise provided in this section, not later than ~~{60}~~ **120** days after the last day of each fiscal year for a mortgage banker, the mortgage banker shall submit to the Commissioner a financial statement that:

(a) Is dated not earlier than the last day of the fiscal year; and

(b) Has been prepared from the books and records of the mortgage banker by an independent public accountant who holds a permit to engage in the practice of public accounting in this State that has not been revoked or suspended.

2. The Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage banker requests such an extension before the date on which the financial statement is due.

3. If a mortgage banker maintains any accounts described in NRS 645E.430, the financial statement submitted pursuant to this section must be audited. The public accountant who prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that he submits the report to the mortgage banker.

4. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3.

Sec. 12. (Deleted by amendment.)

Sec. 12.4. NRS 80.015 is hereby amended to read as follows:

80.015 1. For the purposes of this chapter, the following activities do not constitute doing business in this State:

(a) Maintaining, defending or settling any proceeding;

(b) Holding meetings of the board of directors or stockholders or carrying on other activities concerning internal corporate affairs;

(c) Maintaining accounts in banks or credit unions;

(d) Maintaining offices or agencies for the transfer, exchange and registration of the corporation's own securities or maintaining trustees or depositaries with respect to those securities;

(e) Making sales through independent contractors;

(f) Soliciting or receiving orders outside of this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting

those orders outside of this State and filling them by shipping goods into this State;

(g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;

(k) The production of motion pictures as defined in NRS 231.020;

(l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and

(m) Transacting business in interstate commerce.

2. The list of activities in subsection 1 is not exhaustive.

3. A person who is not doing business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, chapter 645A, 645B or 645E of NRS or title 55 or 56 of NRS unless he:

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

(b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS ~~or~~;

**(c) *Solicits business for the activities of a mortgage broker as defined by NRS 645B.0127 or the activities of a mortgage banker as defined by NRS 645E.100; or***

**(d) *Arranges a mortgage loan secured by real property which is not commercial property as defined by NRS 645E.040.***

4. The fact that a person is not doing business in this State within the meaning of this section:

(a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and

(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not doing business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.

5. As used in this section and for the purposes of NRS 80.016, “deposits” means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

Sec. 12.8. 1. Any person who received or will receive a mortgage agent license between October 1, 2004, and June 30, 2008, must fulfill the requirements of section 1.4 of this act before January 1, 2009, in the same

manner as a person obtaining an initial license. If the person who received a mortgage agent license between October 1, 2004, and June 30, 2008, does not do so, the license of that person is suspended until he does so.

2. Any natural person who received or will receive a mortgage broker license or an initial designation as a qualified employee by a mortgage broker between October 1, 2005, and June 30, 2008, must fulfill the requirements of section 1.4 of this act before January 1, 2009, in the same manner as a natural person obtaining an initial license. If the natural person who received a mortgage broker license or was initially designated as the qualified employee by a mortgage broker between October 1, 2005, and June 30, 2008, does not do so, the license of that natural person is suspended until he does so.

Sec. 13. 1. This section, section 1 and sections 2 to 12.4, inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2007, for all other purposes.

2. Sections 1.4, 1.6, 1.8 and 12.8 of this act become effective:

(a) Upon passage and approval for purpose of adopting regulations, administering examinations as set forth in section 1.4 of this act and approving courses of continuing education as set forth in section 1.8 of this act; and

(b) On July 1, 2008, for all other purposes.

Assemblyman Ocegüera moved that the Assembly concur in the Senate Amendment No. 1029 to Assembly Bill No. 375.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 383.

The following Senate amendment was read:

Amendment No. 785.

AN ACT relating to immigration; creating new crimes relating to trafficking in persons; providing for punitive damages in a civil action against a person who commits such crimes in certain circumstances; making property of a person who commits such crimes subject to forfeiture; adding the crimes to the list of felonies that may cause a person to be charged as a habitual felon; requiring the Director of the Department of Business and Industry to include on the website of the Department a link to the Social Security Administration for employers to verify employee social security numbers; providing for ~~disciplinary action to be taken~~ **an administrative fine to be imposed** against a person who holds a state business license if the person **willfully, flagrantly or otherwise egregiously** engages in the unlawful hiring or employment of an unauthorized alien in violation of federal law; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.3 of this bill creates the crime of trafficking in persons for illegal purposes which involves engaging in certain acts concerning the transportation of an illegal alien into this State with the intent: 1) to subject the person to certain acts relating to involuntary servitude; 2) to commit another felony; or 3) to violate any state or federal labor law. A person who commits such a crime is guilty of a category B felony punishable by a term of imprisonment in the state prison for not less than 1 year and not more than 20 years, and by a fine of not more than \$50,000. Section 1.5 of this bill creates the crime of trafficking in persons which contains the same elements as for trafficking in persons for illegal purposes except that rather than committing the act with the intent to commit another crime, the person commits the act in exchange for money or other financial gain. A person who commits the crime of trafficking in persons is guilty of a category B felony which is punishable by a term of imprisonment in the state prison for a minimum term of 1 year and a maximum term of 10 years, and by a fine of not more than \$50,000.

Section 3 of this bill adds the two new crimes of trafficking in persons to the list of crimes that may cause a person to be charged as a habitual felon. (NRS 207.012) Section 4 of this bill allows a person who suffers an injury as the result of the willful violation of such crimes by a person who was motivated by certain characteristics of the person to recover actual and punitive damages in a civil action. (NRS 41.690) Section 5 of this bill makes personal property of a person who engages in either of the two crimes of trafficking in persons subject to forfeiture. (NRS 179.121)

Section 6 of this bill requires the Director of the Department of Business and Industry to include on the website maintained by the Department a link to the Social Security Administration where an employer may verify the social security numbers of his employees.

Section 10 of this bill requires the Nevada Tax Commission to hold a hearing concerning any person who holds a state business license who has been found to have engaged in the unlawful hiring or employment of an unauthorized alien in violation of federal law. ~~[[If the violation was inadvertent, the Commission may impose an administrative fine and require the person to demonstrate the manner in which he will prevent such violations in the future.]]~~ If the violation is willful, **flagrant or otherwise egregious**, the Commission is ~~[[authorized to suspend or revoke the license depending upon the egregiousness of the violation. If the license is revoked, the person may not obtain a new license for a certain period.]]~~ **required to impose an administrative fine on the person.**

WHEREAS, Trafficking in persons provides opportunities for modern day slavery to occur; and

WHEREAS, Thousands of persons of all ages worldwide are trafficked annually across international borders; and

WHEREAS, Victims of trafficking in persons are often subjected to force, fraud or coercion for the purpose of subjecting the victims to sexual

exploitation, prostitution, providing other forms of sexual entertainment or forced labor; and

WHEREAS, Victims of trafficking in persons may also be used to provide labor in a manner that violates labor laws, including, without limitation, providing labor for reduced wages in the areas of domestic services, restaurants, janitorial services, production work in factories and agricultural labor; and

WHEREAS, Traffickers often employ tactics to instill fear in victims and to deny them freedom, including, without limitation, keeping the victims locked against their will, isolating victims from the public and from their families, confiscating passports, visas or other documents, using or threatening to use violence against victims or their families, informing victims that they will be imprisoned or deported for the violation of immigration laws if they disobey or try to inform the authorities about their situation and controlling any money of the victims; and

WHEREAS, The Legislature recognizes that it is necessary for the State to protect these victims by ensuring that persons who engage in trafficking of persons are punished severely for engaging in such conduct; now therefore,

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

Section 1. Chapter 200 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.5 of this act.

Sec. 1.3. *1. A person shall not transport, procure transportation for or assist in the transportation of or procurement of transportation for another person into the State of Nevada whom he knows or has reason to know does not have the legal right to enter or remain in the United States with the intent to:*

*(a) Subject the person to involuntary servitude or any other act prohibited pursuant to NRS 200.463 or 200.465;*

*(b) Violate any state or federal labor law, including, without limitation, 8 U.S.C. § 1324a; or*

*(c) Commit any other crime which is punishable by not less than 1 year imprisonment in the state prison.*

*2. A person who violates the provisions of subsection 1 is guilty of trafficking in persons for illegal purposes and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$50,000.*

Sec. 1.5. *1. A person shall not transport, procure transportation for or assist in the transportation of or procurement of transportation for another person into the State of Nevada whom he knows or has reason to know does not have the legal right to enter or remain in the United States in exchange for money or other financial gain.*

**2. A person who violates the provisions of subsection 1 is guilty of trafficking in persons and, unless a greater penalty is provided pursuant to NRS 200.464 or section 1.3 of this act, shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$50,000.**

Sec. 2. NRS 200.464 is hereby amended to read as follows:

200.464 ~~[A]~~ **Unless a greater penalty is provided pursuant to section 1.3 of this act, a** person who knowingly:

1. Recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person, intending or knowing that the person will be held in involuntary servitude; or

2. Benefits, financially or by receiving anything of value, from participating in a violation of NRS 200.463,

↪ 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 15 years, and may be further punished by a fine of not more than \$50,000.

Sec. 3. NRS 207.012 is hereby amended to read as follows:

207.012 1. A person who:

(a) Has been convicted in this State of a felony listed in subsection 2; and

(b) Before the commission of that felony, was twice convicted of any crime which under the laws of the situs of the crime or of this State would be a felony listed in subsection 2, whether the prior convictions occurred in this State or elsewhere,

↪ is a habitual felon and shall be punished for a category A felony by imprisonment in the state prison:

(1) For life without the possibility of parole;

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(3) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

2. The district attorney shall include a count under this section in any information or shall file a notice of habitual felon if an indictment is found, if each prior conviction and the alleged offense committed by the accused constitutes a violation of subparagraph (1) of paragraph (a) of subsection 1 of NRS 193.330, NRS 199.160, 199.500, 200.030, 200.310, 200.340, 200.366, 200.380, 200.390, subsection 3 or 4 of NRS 200.400, NRS 200.410, subsection 3 of NRS 200.450, subsection 5 of NRS 200.460, NRS 200.463, 200.464, 200.465, subsection 1, paragraph (a) of subsection 2 or subparagraph (2) of paragraph (b) of subsection 2 of NRS 200.508, NRS 200.710, 200.720, 201.230, 201.450, 202.170, 202.270, subsection 2 of NRS 202.780, paragraph (b) of subsection 2 of NRS 202.820, subsection 2 of NRS 202.830, NRS 205.010, subsection 4 of NRS 205.060, subsection 4 of NRS

205.067, NRS 205.075, 207.400, paragraph (a) of subsection 1 of NRS 212.090, NRS 453.3325, 453.333, 484.219, 484.3795 or 484.37955 ~~[-]~~ ***or section 1.3 or 1.5 of this act.***

3. The trial judge may not dismiss a count under this section that is included in an indictment or information.

Sec. 4. NRS 41.690 is hereby amended to read as follows:

41.690 1. A person who has suffered injury as the proximate result of the willful violation of the provisions of NRS 200.280, 200.310, 200.366, 200.380, 200.400, 200.460, 200.463, 200.464, 200.465, 200.471, 200.481, 200.508, 200.5099, 200.571, 200.575, 203.010, 203.020, 203.030, 203.060, 203.080, 203.090, 203.100, 203.110, 203.119, 206.010, 206.040, 206.140, 206.200, 206.310, 207.180, 207.200 or 207.210 ***or section 1.3 or 1.5 of this act*** by a perpetrator who was motivated by the injured person's actual or perceived race, color, religion, national origin, physical or mental disability or sexual orientation may bring an action for the recovery of his actual damages and any punitive damages which the facts may warrant. If the person who has suffered injury prevails in an action brought pursuant to this subsection, the court shall award him costs and reasonable attorney's fees.

2. The liability imposed by this section is in addition to any other liability imposed by law.

Sec. 5. NRS 179.121 is hereby amended to read as follows:

179.121 1. All personal property, including, without limitation, any tool, substance, weapon, machine, computer, money or security, which is used as an instrumentality in any of the following crimes is subject to forfeiture:

(a) The commission of or attempted commission of the crime of murder, robbery, kidnapping, burglary, invasion of the home, grand larceny, theft if it is punishable as a felony, or pandering;

(b) The commission of or attempted commission of any felony with the intent to commit, cause, aid, further or conceal an act of terrorism;

(c) A violation of NRS 202.445 or 202.446;

(d) The commission of any crime by a criminal gang, as defined in NRS 213.1263; or

(e) A violation of NRS 200.463, 200.464, 200.465, 202.265, 202.287, 205.473 to 205.513, inclusive, 205.610 to 205.810, inclusive, 370.380, 370.382, 370.395, 370.405 or 465.070 to 465.085, inclusive ~~[-]~~ , ***or section 1.3 or 1.5 of this act.***

2. Except as otherwise provided for conveyances forfeitable pursuant to NRS 453.301 or 501.3857, all conveyances, including aircraft, vehicles or vessels, which are used or intended for use during the commission of a felony or a violation of NRS 202.287, 202.300 or 465.070 to 465.085, inclusive, are subject to forfeiture except that:

(a) A conveyance used by any person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture under

this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to the felony or violation;

(b) A conveyance is not subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge, consent or willful blindness;

(c) A conveyance is not subject to forfeiture for a violation of NRS 202.300 if the firearm used in the violation of that section was not loaded at the time of the violation; and

(d) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the felony. If a conveyance is forfeited, the appropriate law enforcement agency may pay the existing balance and retain the conveyance for official use.

3. For the purposes of this section, a firearm is loaded if:

(a) There is a cartridge in the chamber of the firearm;

(b) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver; or

(c) There is a cartridge in the magazine and the magazine is in the firearm or there is a cartridge in the chamber, if the firearm is a semiautomatic firearm.

4. As used in this section, "act of terrorism" has the meaning ascribed to it in NRS 202.4415.

Sec. 6. Chapter 232 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. The Director shall include on the Internet website maintained by the Department a link which connects to the Social Security Administration where an employer may verify the social security number of an employee.**

**2. The link required pursuant to subsection 1 must be maintained in the area of the website that encourages and promotes the growth, development and legal operation of businesses within the State of Nevada.**

Sec. 7. NRS 232.505 is hereby amended to read as follows:

232.505 As used in NRS 232.505 to 232.840, inclusive, **and section 6 of this act**, unless the context requires otherwise:

1. "Department" means the Department of Business and Industry.

2. "Director" means the Director of the Department.

Sec. 8. Chapter 360 of NRS is hereby amended by adding thereto the provisions set forth as sections 9 and 10 of this act.

Sec. 9. **"Unauthorized alien" has the meaning ascribed to it in 8 U.S.C. § 1324a(h)(3).**

Sec. 10. **1. Upon finding that the Attorney General of the United States has made a final decision and entered an order that a person who holds a state business license has engaged in the unlawful hiring or employment of an unauthorized alien pursuant to U.S.C § 1324a(e), the Nevada Tax Commission shall hold a hearing to determine whether to take action against ~~the state business license of~~ the person.**



2. *The Nevada Tax Commission shall consider any proof submitted by the person who holds a state business license which demonstrates that the person attempted to verify the social security number of the unauthorized alien within 6 months from the date on which the unauthorized alien was allegedly employed. Such proof may include, without limitation, a printout from the link maintained on the Internet website of the Department of Business and Industry pursuant to section 6 of this act. Such proof may be used as prima facie evidence that the violation was ~~inadvertent,~~ not willful, flagrant or otherwise egregious.*

3. *If the Nevada Tax Commission determines that the person who holds the state business license violated the federal law ~~+~~*

*~~(a) Inadvertently, the Commission may impose an administrative fine upon the person or require the person to provide an explanation concerning the manner in which the person will conduct business in the future to prevent additional violations of the law; or~~*

*~~(b) Willfully,~~ willfully, flagrantly or otherwise egregiously, the Commission ~~may suspend or revoke the state business license of the person depending on the egregiousness of the violation.~~*

*~~4. The Department shall not issue a new license to a person whose state business license is revoked pursuant to this section.~~*

*~~(a) For 1 year after the date of revocation for the first revocation pursuant to this section.~~*

*~~(b) For 5 years after the date of revocation for a second or subsequent revocation pursuant to this section.~~*

*~~5. Upon revoking a state business license pursuant to this section, the Department shall provide written notice of the revocation to the governing body of the city or county in which the business is being conducted.~~*

*~~6.~~ shall impose an administrative fine against the person in an amount established by the Commission by regulation. Any such administrative fine imposed must be deposited in the State General Fund.*

*4. The Nevada Tax Commission shall adopt such regulations as it determines necessary to carry out the provisions of this section.*

Sec. 11. NRS 360.760 is hereby amended to read as follows:

360.760 As used in NRS 360.760 to 360.798, inclusive, *and sections 9 and 10 of this act*, unless the context otherwise requires, the words and terms defined in NRS 360.765 to 360.775, inclusive, *and section 9 of this act*, have the meanings ascribed to them in those sections.

Sec. 12. ~~NRS 360.798 is hereby amended to read as follows:~~

~~360.798 1. If a person who holds a state business license fails to comply with a provision of NRS 360.760 to 360.798, inclusive, or a regulation of the Department adopted pursuant thereto, or if the Nevada Tax Commission determines that the person has engaged in the unlawful hiring or employment of an unauthorized alien pursuant to section 10 of this act, the Department may revoke or suspend the state business license of the person. Before so doing, the Department must hold a hearing after 10 days.~~

~~written notice to the licensee. The notice must specify the time and place of the hearing and require the licensee to show cause why his license should not be revoked.~~

~~2. If the license is suspended or revoked, the Department shall give written notice of the action to the person who holds the state business license.~~

~~3. The notices required by this section may be served personally or by mail in the manner provided in NRS 360.350 for the service of a notice of the determination of a deficiency.~~

~~4. The Department shall not issue a new license to the former holder of a revoked state business license unless the Department is satisfied that the person will comply with the provisions of this chapter and the regulations of the Department adopted pursuant thereto.} (Deleted by amendment.)~~

Sec. 13. NRS 613.080 is hereby amended to read as follows:

613.080 1. The immigration to this State of all slaves and other people bound by contract to involuntary servitude for a term of years is hereby prohibited.

2. It is unlawful for any company, person or persons to collect the wages or compensation for the labor of the persons described in subsection 1.

3. It is unlawful for any corporation, company, person or persons to pay to any owner or agent of the owner of any such persons mentioned in subsection 1 any wages or compensation for the labor of such slaves or persons so bound by the contract to involuntary servitude.

4. Unless a greater penalty is provided in NRS 200.463 or 200.464 ~~},~~ **or section 1.3 of this act,** a violation of any of the provisions of this section is a gross misdemeanor.

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 383.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 404.

The following Senate amendment was read:

Amendment No. 857.

AN ACT relating to insurance; ~~{prohibiting}~~ **revising provisions concerning the notice that must be given by** an insurer ~~{from using}~~ **who uses** certain credit information concerning an applicant or policyholder ~~{in underwriting or rating a policy;}~~ **under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law regulates the use by an insurer of the credit information of a policyholder or an applicant for insurance. ~~{(NRS 686A.680) This bill prohibits an insurer from using the number of times that an applicant or policyholder opens or closes credit accounts during any specific period as a negative factor in any insurance scoring methodology or in reviewing credit~~

~~information for the purpose of underwriting or rating a policy.] (NRS 686A.600-686A.730) In particular, existing law requires an insurer who takes an adverse action against an applicant or policyholder based on his credit information to provide notice to the applicant or policyholder in accordance with federal law that an adverse action has been taken and to provide notice to the applicant or policyholder explaining the reasons for the adverse action. (NRS 686A.710) This bill requires the notice explaining the reasons for the adverse action to be provided in a form approved by the Commissioner of Insurance.~~

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

Delete existing section 1 of this bill and replace with the following new section 1:

**Section 1. NRS 686A.710 is hereby amended to read as follows:**

686A.710 If an insurer takes an adverse action based upon credit information, the insurer shall:

1. Provide notice to the applicant or policyholder that an adverse action has been taken, in accordance with the requirements of section 615(a) of the federal Fair Credit Reporting Act, 15 U.S.C. § 1681m(a).

2. Provide notice to the applicant or policyholder explaining the reasons for the adverse action. The reasons must be provided in sufficiently clear and specific language so that a person can identify the basis for the insurer's decision to take the adverse action. The notice must include a description of not more than four factors that were the primary influences of the adverse action. The use of generalized terms such as "poor credit history," "poor credit rating" or "poor insurance score" does not meet the requirements of this subsection. ~~[Standardized explanations provided by consumer reporting agencies are deemed to comply with this section.]~~ **The notice required by this subsection must be provided in a form approved by the Commissioner.**

Assemblyman Ocegueda moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 404.

Remarks by Assemblyman Ocegueda.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 424.

The following Senate amendment was read:

Amendment No. 734.

**JOINT SPONSOR: SENATOR HECK**

AN ACT relating to professions; providing for the licensing and regulation of clinical professional counselors, **clinical professional counselor interns** and clinical alcohol and drug abuse counselors; revising the name and expanding the membership of the Board of Examiners for Marriage and Family Therapists; providing a privilege against the disclosure of certain

confidential communications between a clinical professional counselor and his client and certain other persons; requiring reimbursement for services provided by a licensed clinical professional counselor or licensed clinical alcohol and drug abuse counselor under certain policies of health insurance; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 6 and 7 of this bill provide definitions for the terms "clinical professional counselor" and "practice of clinical professional counseling." Sections 8 and ~~99.5~~ **99.5** of this bill establish the requirements for a license to practice as a clinical professional counselor. **Sections 8.2-9 of this bill set forth requirements governing clinical professional counselor interns.** Sections 10-14, ~~16-28 and 30-32~~ **18-21 and 23.5-32** of this bill ~~amend certain provisions of chapter 641A of NRS to~~ include clinical professional counselors and clinical professional counselor interns under the regulation of the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors. Section ~~15~~ **14.5 of this bill revises the definition of "practice of marriage and family therapy."** Sections 15 and 15.5 of this bill ~~increases the membership~~ **increase the number of members** of the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors. ~~from six to eight members. Section 16~~ **Sections 16 and 16.5 of this bill require that the additional** members of the Board ~~must~~ be licensed clinical professional counselors. Section 29 of this bill prohibits a person from engaging in the practice of clinical professional counseling without a license. Section 35 of this bill provides a definition of "clinical practice of counseling alcohol and drug abusers." Section 36 of this bill establishes the requirements for the issuance of a license as a clinical alcohol and drug abuse counselor. Section 37 of this bill establishes the requirements for certification as a clinical alcohol and drug abuse counselor intern. Section 38 of this bill establishes the scope of practice of a clinical alcohol and drug abuse counselor and the duration of his license. ~~Section 45 of this bill revises the definition of the "practice of counseling alcohol and drug abusers."~~ Section 54 of this bill clarifies the scope of practice of an alcohol and drug abuse counselor. Sections 63-66 of this bill provide a privilege against the disclosure of certain confidential communications between a clinical professional counselor and his client and certain other persons. Sections 2, ~~70, 75, 76 and 85~~ **71, 76, 77 and 86** of this bill include a clinical professional counselor in the definition of the term "provider of health care." Sections 72, 73 and 78 of this bill require a clinical professional counselor and a clinical alcohol and drug abuse counselor to report to certain governmental agencies, including law enforcement agencies, cases of known or suspected abuse or neglect of an older person, vulnerable person or a child. Sections ~~70,~~ 79, 81 and 83 of this bill include a clinical professional counselor in the definition of the term "person professionally qualified in the field of psychiatric mental health." Sections 92-99 of this bill require reimbursement for services provided by a licensed clinical

professional counselor or clinical alcohol and drug abuse counselor under certain policies of health insurance.

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

Section 1. NRS 622A.120 is hereby amended to read as follows:

622A.120 1. The following regulatory bodies are exempted from the provisions of this chapter:

- (a) State Contractors' Board.
- (b) State Board of Professional Engineers and Land Surveyors.
- (c) Nevada State Board of Accountancy.
- (d) Board of Medical Examiners.
- (e) Board of Dental Examiners of Nevada.
- (f) State Board of Nursing.
- (g) Chiropractic Physicians' Board of Nevada.
- (h) Nevada State Board of Optometry.
- (i) State Board of Pharmacy.
- (j) Board of Examiners for Marriage and Family Therapists [.] ***and Clinical Professional Counselors.***
- (k) Real Estate Commission, Real Estate Administrator and Real Estate Division of the Department of Business and Industry.
- (l) Commission of Appraisers of Real Estate.
- (m) Commissioner of Mortgage Lending and Division of Mortgage Lending of the Department of Business and Industry.
- (n) Commissioner of Financial Institutions and Division of Financial Institutions of the Department of Business and Industry.
- (o) State Board of Health and Health Division of the Department of Health and Human Services.

2. Any regulatory body which is exempted from the provisions of this chapter pursuant to subsection 1 may elect by regulation to follow the provisions of this chapter or any portion thereof.

Sec. 2. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, ***licensed clinical professional counselor***, chiropractor, athletic trainer, doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 3. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, physician assistant, psychiatrist, psychologist, marriage and family therapist, ***clinical professional counselor***, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who maintains or is employed by an agency to provide nursing in the home.

(f) Any employee of the Department of Health and Human Services.

(g) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(h) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(i) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(j) Any social worker.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section, "agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

Sec. 4. NRS 641.029 is hereby amended to read as follows:

641.029 The provisions of this chapter do not apply to:

1. A physician who is licensed to practice in this State;

2. A person who is licensed to practice dentistry in this State;
  3. A person who is licensed as a marriage and family therapist pursuant to chapter 641A of NRS;
  4. *A person who is licensed as a clinical professional counselor or clinical professional counselor intern pursuant to chapter 641A of NRS;*
  5. A person who is licensed to engage in social work pursuant to chapter 641B of NRS;
  - ~~{5-}~~ 6. A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to NRS 640A.010 to 640A.230, inclusive;
  - ~~{6-}~~ 7. A person who is licensed *as a clinical alcohol and drug abuse counselor, licensed* or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern, *a clinical alcohol and drug abuse counselor intern*, a problem gambling counselor or a problem gambling counselor intern, pursuant to chapter 641C of NRS; or
  - ~~{7-}~~ 8. Any clergyman,
- ↪ if such a person does not commit an act described in NRS 641.440 or represent himself as a psychologist.

Sec. 5. Chapter 641A of NRS is hereby amended by adding thereto the provisions set forth as sections ~~{6}~~ 5.5 to 9, inclusive, of this act.

Sec. 5.5. *"Approved supervisor" means a licensed clinical professional counselor who is approved by the Board to supervise a person who is acquiring the supervised experience in clinical professional counseling that is required for licensure as a clinical professional counselor pursuant to this chapter.*

Sec. 6. *"Clinical professional counselor" means a person who describes himself or his services to the public by any title or description which incorporates the term "clinical professional counselor" and under such a title offers to provide or provides services to any person.*

Sec. 7. ~~{1-}~~ *"Practice of clinical professional counseling" means assisting clients by the application of established principles, including, without limitation:*

~~(a) Counseling by applying the principles, methods, techniques and theories of counseling, consultation, defining goals and developing a plan designed to prevent and resolve the emotional, social, cognitive and behavioral concerns of a client while promoting the overall development of his whole person;~~

~~(b) Consulting by applying principles and methods to provide assistance to a client in addressing the problems of another person;~~

~~(c) Referral of a client to another professional based on an evaluation of the needs of the client; and~~

~~(d) Research by a systematic effort to collect, analyze and interpret data that addresses the social interactions between persons.~~

~~2. The term does not include:~~

~~(a) The diagnosis or treatment of a psychotic disorder;~~

~~(b) The use of a psychological or psychometric assessment test to determine intelligence, personality, aptitude, interests or addictions; or~~

~~(c) The assessment or treatment of couples or families; }~~ the provision of treatment, assessment and counseling, or equivalent activities, to a person or group of persons to achieve mental, emotional, physical, social and moral development and adjustment. The term includes counseling interventions to prevent, diagnose and treat mental, emotional or behavioral disorders and associated distresses which interfere with mental health. The term does not include:

1. The practice of psychology or medicine;
2. The assessment or treatment of couples or families;
3. The prescription of drugs or electroconvulsive therapy;
4. The treatment of physical disease, injury or deformity;
5. The diagnosis or treatment of a psychotic disorder;
6. The use of projective techniques in the assessment of personality;
7. The use of psychological, neuropsychological or clinical tests designed to identify or classify abnormal or pathological human behavior;
8. The use of individually administered intelligence tests, academic achievement tests or neuropsychological tests; or
9. The use of psychotherapy to treat the concomitants of organic illness except in consultation with a qualified physician or licensed clinical psychologist.

Sec. 8. Each applicant for a license to practice as a clinical professional counselor must furnish evidence satisfactory to the Board that he:

1. Is at least 21 years of age;
2. Is of good moral character;
3. Is a citizen of the United States, or is lawfully entitled to remain and work in the United States;

4. Has:

(a) Completed his residency training in psychiatry from an accredited institution approved by the Board;

(b) A graduate degree ~~in an accredited program for mental health counseling; }~~ from a program approved by the Council for Accreditation of Counseling and Related Educational Programs as a program in mental health counseling or community counseling; or

(c) ~~Completed other education and training which is deemed equivalent by the Board; }~~ An acceptable degree as determined by the Board which includes the completion of a practicum and internship in mental health counseling which was taken concurrently with the degree program and was supervised by a licensed mental health professional; and

5. Has:

(a) At least 2 years of postgraduate experience in professional counseling; ~~and~~



(b) At least 3,000 hours of supervised experience in professional counseling ~~of which at least~~ which includes, without limitation:

(1) At least 1,500 hours ~~must consist~~ of direct contact with clients; and

(2) At least 100 hours of counseling under the direct supervision of an approved supervisor of which at least 1 hour per week was completed for each work setting at which the applicant provided counseling; and

(c) Either:

(1) Passed the National Counselor Examination for Licensure and Certification which is administered by the National Board for Certified Counselors and provided evidence satisfactory to the Board of at least 3 years of work experience in mental health counseling; or

(2) Passed the National Clinical Mental Health Counseling Examination which is administered by the National Board for Certified Counselors.

~~6. Holds an undergraduate degree from an accredited institution approved by the Board.~~

Sec. 8.2. 1. A person who wishes to obtain the supervised experience that is required for licensure as a clinical professional counselor pursuant to this chapter must obtain a license as a clinical professional counselor intern before beginning his supervised experience.

2. An applicant for a license as a clinical professional counselor intern must furnish evidence satisfactory to the Board that he:

(a) Is at least 21 years of age;

(b) Is of good moral character;

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States;

(d) Possesses a graduate degree in counseling from an accredited college or university approved by the Board which required the completion of a practicum or internship; and

(e) Has entered into a supervision agreement with an approved supervisor.

Sec. 8.4. A license as a clinical professional counselor intern:

1. Is valid for 5 years and may be renewed not more than once; and

2. Expires upon:

(a) The termination of the supervision agreement with an approved supervisor;

(b) A change in the approved supervisor; or

(c) The issuance of a license as a clinical professional counselor to the holder of the license as a clinical professional counselor intern.

Sec. 8.6. The holder of a license as a clinical professional counselor intern:

1. May engage in the practice of clinical professional counseling only for the purposes of obtaining the supervised experience required by

subsection 5 of section 8 of this act for a license to practice as a clinical professional counselor; and

2. Shall not engage in the practice of clinical professional counseling independently.

Sec. 8.8. 1. The holder of a license as a clinical professional counselor intern shall, before providing any counseling or other therapeutic service to a client:

(a) Inform the client that he holds a license as a clinical professional counselor intern and is practicing under the supervision of an approved supervisor; and

(b) Provide to the client the name of his approved supervisor.

2. A violation of subsection 1 constitutes a ground for initiating disciplinary action or denying licensure.

~~Sec. 9. 1. {Except as otherwise provided in subsection 2, each qualified applicant for a license to practice as a clinical professional counselor must be given a written examination by the Board on his knowledge of clinical professional counseling. Examinations must be given at a time and place and under such supervision as the Board may determine. A grade of 70 percent or higher is a passing grade.~~

~~2. The Board shall accept receipt of a passing grade by a qualified applicant on the National Clinical Mental Health Counselor Examination administered by the National Board of Certified Counselors in lieu of requiring a written examination pursuant to subsection 1.~~

~~3. In addition to the requirements of subsections 1 and 2, the Board may require an oral examination. The Board may examine applicants in any applied or theoretical fields it deems appropriate.~~ The holder of a license as a clinical professional counselor intern who makes a change in a supervision agreement or enters into a new supervision agreement shall notify the Board within 30 days after the date of the change or new agreement.

2. Each party to a supervision agreement shall, upon its termination, notify the Board in writing not more than 5 days after the date of termination.

Sec. 10. NRS 641A.010 is hereby amended to read as follows:

641A.010 The practice of marriage and family therapy ~~{is}~~ **and the practice of clinical professional counseling are** hereby declared ~~{a learned profession,}~~ **to be learned professions** profoundly affecting public safety and welfare and charged with the public interest, and therefore subject to protection and regulation by the State.

Sec. 11. NRS 641A.020 is hereby amended to read as follows:

641A.020 As used in this chapter, unless the context otherwise requires, **the** words and terms defined in NRS 641A.030 to 641A.080, inclusive, **and sections 5.5, 6 and 7 of this act** have the meanings ~~{assigned}~~ **ascribed** to them in ~~{such}~~ **those** sections.

Sec. 12. NRS 641A.030 is hereby amended to read as follows:

641A.030 "Board" means the Board of Examiners for Marriage and Family Therapists ~~[ ]~~ **and Clinical Professional Counselors.**

Sec. 13. NRS 641A.040 is hereby amended to read as follows:

641A.040 "License" means a license issued by the Board pursuant to this chapter to practice as a marriage and family therapist ~~[ ]~~, ~~for to practice as~~ **a clinical professional counselor ~~[ ]~~ or a clinical professional counselor intern.**

Sec. 14. NRS 641A.050 is hereby amended to read as follows:

641A.050 "Licensee" means a person licensed as a marriage and family therapist, ~~for~~ **a clinical professional counselor or a clinical professional counselor intern** by the Board.

**Sec. 14.5. NRS 641A.080 is hereby amended to read as follows:**

641A.080 1. "Practice of marriage and family therapy" means the ~~[application of established principles of learning, motivation, perception, thinking, emotional, marital and sexual relationships and adjustments by persons trained in psychology, social work, psychiatry or marriage and family therapy. The application of these principles includes:~~

~~(a) Diagnosis, therapy, treatment, counseling and the use of psychotherapeutic measures with persons or groups with adjustment problems in the areas of marriage, family or personal relationships.~~

~~(b) Conducting research concerning problems related to marital relationships and human behavior.~~

~~(c) Consultation with other persons engaged in the practice of marriage and family therapy if the consultation is determined by the Board to include the application of any of these principles.]~~ **diagnosis and treatment of mental and emotional disorders, whether cognitive, affective or behavioral, within the context of interpersonal relationships, including, without limitation, marital and family systems, and involves the professional application or use of psychotherapy, counseling, evaluation, assessment instruments, consultation, treatment planning, supervision, research and prevention of mental and emotional disorders. The term includes, without limitation, the rendering of professional marital and family therapy services to a person, couple, family or family group or other group of persons.**

2. The term does not include:

(a) The diagnosis or treatment of a psychotic disorder; or

(b) The use of a psychological or psychometric assessment test to determine intelligence, personality, aptitude, interests or addictions.

Sec. 15. NRS 641A.090 is hereby amended to read as follows:

641A.090 The Board of Examiners for Marriage and Family Therapists ~~[ ]~~ **and Clinical Professional Counselors**, consisting of ~~[six]~~ **eight** members appointed by the Governor, is hereby created.

**Sec. 15.5. NRS 641A.090 is hereby amended to read as follows:**

641A.090 The Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors, consisting of ~~eight~~ nine members appointed by the Governor, is hereby created.

Sec. 16. NRS 641A.100 is hereby amended to read as follows:

641A.100 1. The Governor shall appoint to the Board:

(a) Four members who are licensed marriage and family therapists and are in good standing with or acceptable for membership in their local or state societies and associations when they exist; ~~and~~

(b) *Two members who are licensed clinical professional counselors and are in good standing with or acceptable for membership in their local or state societies and associations when they exist; and*

(c) Two members who are representatives of the general public. These members must not be:

(1) A marriage and family therapist; ~~or~~

(2) *A clinical professional counselor; or*

(3) The spouse or the parent or child, by blood, marriage or adoption, of a marriage and family therapist ~~or~~ *or clinical professional counselor.*

2. The members who are representatives of the general public shall not participate in preparing, conducting or grading any examination required by the Board.

3. The Governor may, after notice and hearing, remove any member of the Board for misconduct in office, incompetence, neglect of duty or other sufficient cause.

**Sec. 16.5. NRS 641A.100 is hereby amended to read as follows:**

641A.100 1. The Governor shall appoint to the Board:

(a) Four members who are licensed marriage and family therapists and are in good standing with or acceptable for membership in their local or state societies and associations when they exist;

(b) ~~Two~~ Three members who are licensed clinical professional counselors and are in good standing with or acceptable for membership in their local or state societies and associations when they exist; and

(c) Two members who are representatives of the general public. These members must not be:

(1) A marriage and family therapist;

(2) A clinical professional counselor; or

(3) The spouse or the parent or child, by blood, marriage or adoption, of a marriage and family therapist or clinical professional counselor.

2. The members who are representatives of the general public shall not participate in preparing, conducting or grading any examination required by the Board.

3. The Governor may, after notice and hearing, remove any member of the Board for misconduct in office, incompetence, neglect of duty or other sufficient cause.

Sec. 17. NRS 641A.130 is hereby amended to read as follows:

641A.130 The Board shall meet at least once every 6 months at a time and place fixed by the Board. The Board shall hold a special meeting upon a call of the President or upon a request by a majority of the members. ~~{Three}~~ **Five** members of the Board constitute a quorum.

Sec. 18. NRS 641A.160 is hereby amended to read as follows:

641A.160 The Board shall adopt regulations not inconsistent with the provisions of this chapter governing its procedure, the examination and licensing of applicants, the granting, refusal, revocation or suspension of licenses, and the practice of marriage and family therapy **and the practice of clinical professional counseling** as ~~{it applies}~~ **those practices apply** to this chapter.

Sec. 19. NRS 641A.180 is hereby amended to read as follows:

641A.180 The Board shall:

1. Adopt regulations specifying the criteria for courses of study that are sufficient for the purposes of licensing; and
2. Determine which schools in and out of this State have courses of study for the preparation of marriage and family therapy **and clinical professional counseling** which are sufficient for the purposes of licensing. Published lists of educational institutions accredited by recognized accrediting organizations may be used in the evaluation of ~~{such}~~ **those** courses of study.

Sec. 20. NRS 641A.215 is hereby amended to read as follows:

641A.215 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license ~~{as a marriage and family therapist}~~ shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license ~~{as a marriage and family therapist}~~ shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license ~~{as a marriage and family therapist}~~ may not be issued or renewed by the Board 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 Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 21. NRS 641A.215 is hereby amended to read as follows:

641A.215 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license ~~for a marriage and family therapist~~ shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Board.

3. A license ~~for a marriage and family therapist~~ may not be issued or renewed by the Board 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 Board shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 22. NRS 641A.220 is hereby amended to read as follows:

641A.220 Each applicant *for a license to practice as a marriage and family therapist* must furnish evidence satisfactory to the Board that he:

1. Is at least 21 years of age;

2. Is of good moral character;

3. Is a citizen of the United States, or is lawfully entitled to remain and work in the United States;

4. Has completed his residency training in psychiatry from an accredited institution approved by the Board, has a graduate degree in marriage and family therapy, psychology or social work from an accredited institution

approved by the Board or has completed other education and training which is deemed equivalent by the Board;

5. Has ~~at least 1 year~~:

(a) *At least 2 years* of postgraduate experience in marriage and family therapy ~~[deemed satisfactory to the Board]~~; and

(b) *At least 3,000 hours of supervised experience in marriage and family therapy, of which at least 1,500 hours must consist of direct contact with clients; and*

6. Holds an undergraduate degree from an accredited institution approved by the Board.

Sec. 23. NRS 641A.230 is hereby amended to read as follows:

641A.230 1. Except as otherwise provided in subsection 2, each qualified applicant for a license *to practice as a marriage and family therapist* must ~~be given~~ pass a written examination given by the Board on his knowledge of marriage and family therapy. Examinations must be given at a time and place and under such supervision as the Board may determine. ~~[A grade of 70 percent or higher is a passing grade.]~~

2. The Board shall accept receipt of a passing grade by a qualified applicant on the national examination sponsored by the ~~[American]~~ Association ~~[for Marriage]~~ of Marital and Family Therapy Regulatory Boards in lieu of requiring a written examination pursuant to subsection 1.

3. In addition to the requirements of subsections 1 and 2, the Board may require an oral examination. The Board may examine *applicants* in whatever applied or theoretical fields it deems appropriate.

**Sec. 23.5. NRS 641A.235 is hereby amended to read as follows:**

641A.235 1. The Board shall issue a license to an applicant who meets the requirements imposed pursuant to this chapter.

2. ~~[A]~~ Except as otherwise provided in section 8.4 of this act, a license expires on January 1 of each year.

3. The Board may prorate the fee for a license which expires less than 6 months after the date of issuance.

Sec. 24. NRS 641A.265 is hereby amended to read as follows:

641A.265 The Board may waive all or part of the requirement of continuing education in a particular year if the marriage and family therapist *or clinical professional counselor* was prevented from fulfilling the requirement ~~[by]~~ *because of* circumstances beyond his control.

Sec. 25. NRS 641A.285 is hereby amended to read as follows:

641A.285 1. Upon written request to the Board and payment of the fee prescribed by the Board, a licensee in good standing may have his name and license transferred to an inactive list for a period not to exceed 3 continuous years. A licensee shall not practice marriage and family therapy *or clinical professional counseling* during the time his license is inactive. If an inactive licensee desires to resume the practice of marriage and family therapy ~~[ ]~~ *or clinical professional counseling*, the Board must reactivate the license upon the:

- (a) Completion of an application for reactivation;
- (b) Payment of the fee for renewal of the license; and
- (c) Demonstration, if deemed necessary by the Board, that the licensee is then qualified and competent to practice.

➡ Except as otherwise provided in subsection 2, the licensee is not required to pay the delinquency fee or the renewal fee for any year while the license was inactive.

2. Any license that remains inactive for a period which exceeds 3 continuous years is deemed:

- (a) To effect a revocation for the purposes of NRS 641A.270.
- (b) To have lapsed at the beginning of that period for the purposes of NRS 641A.280.

3. The Board may adopt such regulations as it deems necessary to carry out the provisions of this section, including without limitation, regulations governing the renewal of inactive licenses and any requirement of continuing education for inactive licensees.

Sec. 26. NRS 641A.310 is hereby amended to read as follows:

641A.310 The Board may refuse to grant a license or may suspend or revoke a license for any of the following reasons:

- 1. Conviction of a felony relating to the practice of marriage and family therapy *or clinical professional counseling* or of any offense involving moral turpitude, the record of conviction being conclusive evidence thereof.
- 2. Habitual drunkenness or addiction to the use of a controlled substance.
- 3. Impersonating a licensed marriage and family therapist, ~~for a~~ *clinical professional counselor or a clinical professional counselor intern* or allowing another person to use his license.
- 4. Using fraud or deception in applying for a license or in passing the examination provided for in this chapter.
- 5. Rendering or offering to render services outside the area of his training, experience or competence.
- 6. Committing unethical practices contrary to the interest of the public as determined by the Board.
- 7. Unprofessional conduct as determined by the Board.
- 8. Negligence, fraud or deception in connection with services he is licensed to provide pursuant to this chapter.

Sec. 27. NRS 641A.313 is hereby amended to read as follows:

641A.313 1. If the Board 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 the holder of a license, ~~[as a marriage and family therapist,]~~ the Board shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the



holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license ~~for a marriage and family therapist~~ that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 28. NRS 641A.315 is hereby amended to read as follows:

641A.315 1. If the Board or any investigative committee of the Board has reason to believe that the conduct of any marriage and family therapist, ~~for~~ **clinical professional counselor or clinical professional counselor intern** has raised a reasonable question as to his competence to practice therapy **or clinical professional counseling** with reasonable skill and safety, it may order the marriage and family therapist, ~~for~~ **clinical professional counselor or clinical professional counselor intern** to undergo:

(a) A mental or physical examination administered by an appropriately licensed provider of health care;

(b) An examination testing his competence to practice therapy ~~for~~ **or clinical professional counseling**; or

(c) Any other examination designated by the Board,  
 ↪ to assist the Board or committee in determining the fitness of the marriage and family therapist to practice therapy ~~for~~ **or the clinical professional counselor or clinical professional counselor intern to practice clinical professional counseling**.

2. For the purposes of this section:

(a) Every **marriage and family therapist, for clinical professional counselor or clinical professional counselor intern** who applies for a license or who is licensed pursuant to this chapter is deemed to have given his consent to submit to any examination ordered pursuant to subsection 1 when ordered to do so in writing by the Board.

(b) The testimony and reports of the examining provider of health care are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a **marriage and family therapist, for clinical professional counselor or clinical professional counselor intern** licensed pursuant to this chapter to submit to an examination when ordered to do so as provided in this section constitutes an admission of the charges against him.

4. The Board may require the marriage and family therapist, ~~for~~ **clinical professional counselor or clinical professional counselor intern** to pay the cost of the examination.

Sec. 29. NRS 641A.410 is hereby amended to read as follows:

641A.410 1. It is unlawful for any person to engage in the practice of marriage and family therapy **or the practice of clinical professional counseling** unless he is licensed under the provisions of this chapter.

2. The provisions of this chapter do not:

(a) Prevent any licensed physician, licensed nurse, licensed psychologist, certified alcohol or drug abuse counselor or other person licensed or certified by the State from carrying out the functions permitted by his respective license or certification if the person does not hold himself out to the public by any title and description of service likely to cause confusion with the titles and descriptions of service set forth in this chapter.

(b) Apply to any activity or service of a student who is obtaining a professional education as recognized by the Board if the activity or service constitutes a part of the student's supervised course of study, the activities are supervised by a licensee under this chapter and the student is designated by the title "intern in marriage and family therapy" ~~for intern in clinical professional counseling~~ or any other title which clearly indicates his status as a student.

(c) Apply to any activity or service of an intern while he is obtaining the experience required for licensing as a marriage and family therapist ~~or a clinical professional counselor~~.

(d) Apply to a licensed or ordained minister in good standing with his denomination whose duty is primarily to serve his congregation and whose practice of marriage and family therapy **or clinical professional counseling** is incidental to his other duties if he does not hold himself out to the public by any title or description of service that is likely to cause confusion with the titles and descriptions or services set forth in this chapter.

Sec. 30. NRS 641A.430 is hereby amended to read as follows:

641A.430 It is unlawful for any person, other than a person licensed under this chapter, to employ or use the term "marriage and family counselor," "marriage and family therapist," "marital adviser," "marital therapist," ~~or~~ "marital consultant," **"clinical professional ~~counselor~~ counselor," "clinical professional counselor intern"** or any similar title in connection with his work, or in any way imply that he is licensed by the Board, unless he is licensed under this chapter.

Sec. 31. NRS 641A.440 is hereby amended to read as follows:

641A.440 Any person who violates any of the provisions of this chapter or, having had his license suspended or revoked, continues to represent himself as a marriage and family therapist, ~~or a clinical professional counselor~~ **or clinical professional counselor intern** shall be punished by imprisonment in the county jail for not more than 1 year or by a fine of not more than \$5,000, or by both fine and imprisonment. Each violation is a separate offense.

Sec. 32. NRS 641A.450 is hereby amended to read as follows:

641A.450 A violation of this chapter by a person unlawfully representing himself as a marriage and family therapist, ~~or a clinical professional counselor~~ **or clinical professional counselor intern** may be enjoined by a district court on petition by the Board. In any such proceeding it is not necessary to show that any person is individually injured. If the respondent is

found guilty of misrepresenting himself as a marriage and family therapist ~~or a clinical professional counselor~~ ~~or a clinical professional counselor intern~~, the court shall enjoin him from making such a representation until he has been licensed. Procedure in ~~such~~ *those* cases is the same as in any other application for an injunction. The remedy by injunction is in addition to criminal prosecution and punishment.

Sec. 33. NRS 641B.040 is hereby amended to read as follows:

641B.040 The provisions of this chapter do not apply to:

1. A physician who is licensed to practice in this State;
2. A nurse who is licensed to practice in this State;
3. A person who is licensed as a psychologist pursuant to chapter 641 of NRS;

4. A person who is licensed as a marriage and family therapist pursuant to chapter 641A of NRS;

5. *A person who is licensed as a clinical professional counselor or clinical professional counselor intern pursuant to chapter 641A of NRS;*

6. A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to NRS 640A.010 to 640A.230, inclusive;

~~6.~~ 7. A person who is licensed *as a clinical alcohol and drug abuse counselor, licensed* or certified as an alcohol and drug abuse counselor, or certified as *a clinical alcohol and drug abuse counselor intern*, an alcohol and drug abuse counselor intern, a problem gambling counselor or a problem gambling counselor intern, pursuant to chapter 641C of NRS;

~~7.~~ 8. Any clergyman;

~~8.~~ 9. A county welfare director;

~~9.~~ 10. Any person who may engage in social work or clinical social work in his regular governmental employment but does not hold himself out to the public as a social worker; or

~~10.~~ 11. A student of social work and any other person preparing for the profession of social work under the supervision of a qualified social worker in a training institution or facility recognized by the Board, unless the student or other person has been issued a provisional license pursuant to paragraph (b) of subsection 1 of NRS 641B.275. Such a student must be designated by the title "student of social work" or "trainee in social work," or any other title which clearly indicates his training status.

Sec. 34. Chapter 641C of NRS is hereby amended by adding thereto the provisions set forth as sections ~~{31 to 33, inclusive,}~~ 35 to 38, inclusive, of this act.

Sec. 35. 1. *"Clinical practice of counseling alcohol and drug abusers" means:*

(a) *The application of counseling to reduce or eliminate the habitual use of alcohol or other drugs, other than any maintenance dosage of a narcotic or habit-forming drug administered pursuant to chapter 453 of NRS; and*

(b) *The identification, evaluation, diagnosis and treatment of a mentally ill person who is an alcoholic or abuser of drugs.*

2. *The term does not include:*

- (a) *The diagnosis or treatment of a psychotic disorder; or*
- (b) *The use of a psychological or psychometric assessment test to determine intelligence, personality, aptitude, interests or addictions.*

Sec. 36. 1. *The Board shall issue a license as a clinical alcohol and drug abuse counselor to:*

~~1.1~~ (a) *A person who:*

~~1.1(a)~~ (1) *Is not less than 21 years of age;*

~~1.1(b)~~ (2) *Is a citizen of the United States or is lawfully entitled to remain and work in the United States;*

~~1.1(c)~~ (3) *Has received a master's degree or a doctoral degree from an accredited college or university in a field of social science approved by the Board that includes comprehensive coursework in clinical mental health, including the diagnosis of mental health disorders;*

~~1.1(d)~~ (4) *Has completed a program approved by the Board consisting of at least 2,000 hours of supervised, postgraduate counseling of alcohol and drug abusers;*

~~1.1(e)~~ (5) *Has completed a program that:*

~~1.1(e)(1)~~ (I) *Is approved by the Board; and*

~~1.1(e)(2)~~ (II) *Consists of at least 2,000 hours of postgraduate counseling of persons who are mentally ill and who are alcohol and drug abusers that is supervised by a clinical alcohol and drug abuse counselor who is a person professionally qualified in the field of psychiatric mental health and who is approved by the Board;*

~~1.1(f)~~ (6) *Passes the written and oral examinations prescribed by the Board pursuant to NRS 641C.290;*

~~1.1(g)~~ (7) *Pays the fees required pursuant to NRS 641C.470; and*

~~1.1(h)~~ (8) *Submits all information required to complete an application for a license.*

~~2.1~~ (b) *A person who:*

~~2.1(a)~~ (1) *Is not less than 21 years of age;*

~~2.1(b)~~ (2) *Is a citizen of the United States or is lawfully entitled to remain and work in the United States;*

~~2.1(c)~~ (3) *Is:*

~~2.1(c)(1)~~ (I) *Licensed as a clinical social worker pursuant to chapter 641B of NRS;*

~~2.1(c)(2)~~ (II) *Licensed as a marriage and family therapist pursuant to chapter 641A of NRS; or*

~~2.1(c)(3)~~ (III) *A nurse who is licensed pursuant to chapter 632 of NRS and has received a master's degree or a doctoral degree from an accredited college or university;*

~~2.1(d)~~ (4) *Has completed at least 6 months of supervised counseling of alcohol and drug abusers approved by the Board;*

~~2.1(e)~~ (5) *Passes the written and oral examinations prescribed by the Board pursuant to NRS 641C.290;*

~~##~~ (6) Pays the fees required pursuant to NRS 641C.470; and  
~~##~~ (7) Submits all the information required to complete an application for a license.

~~2.~~ 2. As used in this section, “person professionally qualified in the field of psychiatric mental health” has the meaning ascribed to it in NRS 433.209.

Sec. 37. 1. The Board shall issue a certificate as a clinical alcohol and drug abuse counselor intern to a person who:

- (a) Is not less than 21 years of age;
- (b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
- (c) Pays the fees required pursuant to NRS 641C.470;
- (d) Submits proof to the Board that he has received a master’s degree or doctoral degree in a field of social science approved by the Board that includes comprehensive coursework in clinical mental health, including the diagnosis of mental health disorders; and
- (e) Submits all the information required to complete an application for a certificate.

2. A certificate as a clinical alcohol and drug abuse counselor intern is valid for 1 year and may be renewed. The Board may waive any requirement for the renewal of a certificate upon good cause shown by the holder of the certificate.

3. A certified clinical alcohol and drug abuse counselor intern may, under the supervision of a licensed clinical alcohol and drug abuse counselor:

- (a) Engage in the clinical practice of counseling alcohol and drug abusers; ~~who are mentally ill;~~ and
- (b) Diagnose or classify a person as an alcoholic or drug abuser.

Sec. 38. 1. A license as a clinical alcohol and drug abuse counselor is valid for 1 year and may be renewed.

2. A licensed clinical alcohol and drug abuse counselor may:

- (a) Engage in the clinical practice of counseling alcohol and drug abusers;
- (b) Diagnose or classify a person as an alcoholic or abuser of drugs; and
- (c) Supervise certified interns.

Sec. 39. NRS 641C.010 is hereby amended to read as follows:

641C.010 The practice of counseling alcohol and drug abusers , *the clinical practice of counseling alcohol and drug abusers* and the practice of counseling problem gamblers are hereby declared to be learned professions affecting public health, safety and welfare and are subject to regulation to protect the public from the practice of counseling alcohol and drug abusers , *the clinical practice of counseling alcohol and drug abusers* and the practice of counseling problem gamblers by unqualified persons and from unprofessional conduct by persons who are licensed or certified to engage in

the practice of counseling alcohol and drug abusers, *licensed or certified to engage in the clinical practice of counseling alcohol and drug abusers* or certified to engage in the practice of counseling problem gamblers.

Sec. 40. NRS 641C.020 is hereby amended to read as follows:

641C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 641C.030 to 641C.110, inclusive, *and section 35 of this act*, have the meanings ascribed to them in those sections.

Sec. 41. NRS 641C.040 is hereby amended to read as follows:

641C.040 "Certificate" means a certificate issued to a person who is certified as an alcohol and drug abuse counselor, *a clinical alcohol and drug abuse counselor intern*, an alcohol and drug abuse counselor intern, a problem gambling counselor or a problem gambling counselor intern.

Sec. 42. NRS 641C.060 is hereby amended to read as follows:

641C.060 "Certified intern" means a person who is certified as *a clinical alcohol and drug abuse counselor intern*, an alcohol and drug abuse counselor intern or a problem gambling counselor intern pursuant to the provisions of this chapter.

Sec. 43. NRS 641C.080 is hereby amended to read as follows:

641C.080 "License" means a license issued to a person who is licensed as an alcohol and drug abuse counselor *or a clinical alcohol and drug abuse counselor* pursuant to the provisions of this chapter.

Sec. 44. NRS 641C.090 is hereby amended to read as follows:

641C.090 "Licensed counselor" means a person who is licensed as an alcohol and drug abuse counselor *or a clinical alcohol and drug abuse counselor* pursuant to the provisions of this chapter.

Sec. 45. (Deleted by amendment.)

Sec. 46. NRS 641C.130 is hereby amended to read as follows:

641C.130 The provisions of this chapter do not apply to:

1. A physician who is licensed pursuant to the provisions of chapter 630 or 633 of NRS;

2. A nurse who is licensed pursuant to the provisions of chapter 632 of NRS and is authorized by the State Board of Nursing to engage in the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers;

3. A psychologist who is licensed pursuant to the provisions of chapter 641 of NRS;

4. *A clinical professional counselor or clinical professional counselor intern who is licensed pursuant to chapter 641A of NRS;*

5. A marriage and family therapist who is licensed pursuant to the provisions of chapter 641A of NRS and is authorized by the Board of Examiners for Marriage and Family Therapists *and Clinical Professional Counselors* to engage in the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers; or

~~{5.}~~ 6. A person who is licensed as a clinical social worker pursuant to the provisions of chapter 641B of NRS and is authorized by the Board of

Examiners for Social Workers to engage in the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers.

Sec. 47. NRS 641C.150 is hereby amended to read as follows:

641C.150 1. The Board of Examiners for Alcohol, Drug and Gambling Counselors, consisting of seven members appointed by the Governor, is hereby created.

2. The Board must consist of:

(a) Three members who are licensed as *clinical alcohol and drug abuse counselors or* alcohol and drug abuse counselors pursuant to the provisions of this chapter.

(b) One member who is certified as an alcohol and drug abuse counselor pursuant to the provisions of this chapter.

(c) Two members who are licensed pursuant to chapter 630, 632, 641, 641A or 641B of NRS and certified as problem gambling counselors pursuant to the provisions of this chapter.

(d) One member who is a representative of the general public. This member must not be:

(1) A licensed *clinical alcohol and drug abuse counselor or a licensed* or certified alcohol and drug abuse counselor or problem gambling counselor; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a licensed *clinical alcohol and drug abuse counselor or a licensed* or certified alcohol and drug abuse counselor or problem gambling counselor.

3. A person may not be appointed to the Board unless he is:

(a) A citizen of the United States or is lawfully entitled to remain and work in the United States; and

(b) A resident of this State.

4. No member of the Board may be held liable in a civil action for any act that he performs in good faith in the execution of his duties pursuant to the provisions of this chapter.

Sec. 48. NRS 641C.220 is hereby amended to read as follows:

641C.220 The Board may enter into an interlocal agreement with an Indian tribe to provide to members of the tribe training in the practice of counseling alcohol and drug abusers *or the clinical practice of counseling alcohol and drug abusers* to assist those persons in obtaining licenses and certificates as alcohol and drug abuse counselors ~~[-]~~ *and licenses as clinical alcohol and drug abuse counselors.*

Sec. 49. NRS 641C.290 is hereby amended to read as follows:

641C.290 1. *Each applicant for a license as a clinical alcohol and drug abuse counselor must pass a written and oral examination concerning his knowledge of the clinical practice of counseling alcohol and drug abusers, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.*

2. Each applicant for a license or certificate as an alcohol and drug abuse counselor must pass a written and oral examination concerning his knowledge of the practice of counseling alcohol and drug abusers, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.

~~{2-}~~ 3. Each applicant for a certificate as a problem gambling counselor must pass a written examination concerning his knowledge of the practice of counseling problem gamblers, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.

~~{3-}~~ 4. The Board shall:

- (a) Examine applicants at least two times each year.
- (b) Establish the time and place for the examinations.
- (c) Provide such books and forms as may be necessary to conduct the examinations.
- (d) Establish, by regulation, the requirements for passing the examination.

~~{4-}~~ 5. The Board may employ other persons to conduct the examinations.

Sec. 50. NRS 641C.300 is hereby amended to read as follows:

641C.300 The Board shall issue a license or certificate without examination to a person who holds a license or certificate as ~~{an}~~ **a clinical alcohol and drug abuse counselor or an** alcohol and drug abuse counselor in another state, a territory or possession of the United States or the District of Columbia if the requirements of that jurisdiction at the time the license or certificate was issued are deemed by the Board to be substantially equivalent to the requirements set forth in the provisions of this chapter.

Sec. 51. NRS 641C.310 is hereby amended to read as follows:

641C.310 1. The Board may hold hearings and conduct investigations concerning any matter related to an application for a license or certificate. In the hearings and investigations, the Board may require the presentation of evidence.

2. The Board may refuse to issue a license or certificate to an applicant if the Board determines that the applicant:

(a) Is not of good moral character as it relates to the practice of counseling alcohol and drug abusers ~~{-}~~ **or the clinical practice of counseling alcohol and drug abusers;**

(b) Has submitted a false credential to the Board;

(c) Has been disciplined in another state, a possession or territory of the United States or the District of Columbia in connection with the practice of counseling alcohol and drug abusers ~~{-}~~ **or the clinical practice of counseling alcohol and drug abusers;**

(d) Has committed an act in another state, a possession or territory of the United States or the District of Columbia in connection with the practice of counseling alcohol and drug abusers **or the clinical practice of counseling**



*alcohol and drug abusers* that would be a violation of the provisions of this chapter if the act were committed in this State; or

(e) Has failed to comply with any of the requirements for a license or certificate.

Sec. 52. NRS 641C.320 is hereby amended to read as follows:

641C.320 1. The Board may issue ~~for~~:

(a) A provisional license *as a clinical alcohol and drug abuse counselor to a person who has applied to the Board to take the examination for a license as a clinical alcohol and drug abuse counselor and is otherwise eligible for that license pursuant to section 36 of this act*; or

(b) A *provisional license or* certificate as an alcohol and drug abuse counselor to a person who has applied to the Board to take the examination for a license or certificate as an alcohol and drug abuse counselor and is otherwise eligible for that license or certificate pursuant to NRS 641C.350 or 641C.390.

2. A provisional license or certificate is valid for not more than 1 year and may not be renewed.

Sec. 53. NRS 641C.350 is hereby amended to read as follows:

641C.350 The Board shall issue a license as an alcohol and drug abuse counselor to:

1. A person who:

(a) Is not less than 21 years of age;

(b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(c) Has received a master's degree or a doctoral degree from an accredited college or university in a field of social science approved by the Board;

(d) Has completed 4,000 hours of supervised counseling of alcohol and drug abusers;

(e) Passes the written and oral examinations prescribed by the Board pursuant to NRS 641C.290;

(f) Pays the fees required pursuant to NRS 641C.470; and

(g) Submits all information required to complete an application for a license.

2. A person who:

(a) Is not less than 21 years of age;

(b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(c) Is:

(1) Licensed as a clinical social worker pursuant to chapter 641B of NRS;

(2) *Licensed as a clinical professional counselor pursuant to chapter 641A of NRS*;

(3) Licensed as a marriage and family therapist pursuant to chapter 641A of NRS; ~~for~~

~~(3)}~~ (4) A nurse who is licensed pursuant to chapter 632 of NRS and has received a master's degree or a doctoral degree from an accredited college or university; *or*

(5) *Licensed as a clinical alcohol and drug abuse counselor pursuant to this chapter;*

(d) Has completed at least 6 months of supervised counseling of alcohol and drug abusers approved by the Board;

(e) Passes the written and oral examinations prescribed by the Board pursuant to NRS 641C.290;

(f) Pays the fees required pursuant to NRS 641C.470; and

(g) Submits all information required to complete an application for a license.

Sec. 54. NRS 641C.360 is hereby amended to read as follows:

641C.360 1. A license as an alcohol and drug abuse counselor is valid for 2 years and may be renewed.

2. A licensed *alcohol and drug abuse* counselor may:

(a) Engage in the practice of counseling alcohol and drug abusers;

(b) Diagnose or classify a person as an alcoholic or abuser of drugs; and

(c) Supervise certified *alcohol and drug abuse counselor* interns.

3. *A licensed alcohol and drug abuse counselor may not identify, evaluate, diagnose or treat a mentally ill person who is an alcoholic or abuser of drugs.*

Sec. 55. NRS 641C.420 is hereby amended to read as follows:

641C.420 1. The Board shall issue a certificate as an alcohol and drug abuse counselor intern to a person who:

(a) Is not less than 21 years of age;

(b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(c) Has a high school diploma or a general equivalency diploma;

(d) Pays the fees required pursuant to NRS 641C.470;

(e) Submits proof to the Board that he:

(1) Is enrolled in a program from which he will receive an associate's degree, bachelor's degree, master's degree or doctoral degree in a field of social science approved by the Board; or

(2) Has received an associate's degree, bachelor's degree, master's degree or doctoral degree in a field of social science approved by the Board; and

(f) Submits all information required to complete an application for a certificate.

2. A certificate as an alcohol and drug abuse counselor intern is valid for 1 year and may be renewed. The Board may waive any requirement for the renewal of a certificate upon good cause shown by the holder of the certificate.

3. A certified *alcohol and drug abuse counselor* intern may, under the supervision of a licensed *alcohol and drug abuse* counselor ~~or~~ **or licensed clinical alcohol and drug abuse counselor:**

- (a) Engage in the practice of counseling alcohol and drug abusers; and
- (b) Diagnose or classify a person as an alcoholic or drug abuser.

Sec. 56. NRS 641C.430 is hereby amended to read as follows:

641C.430 The Board may issue a certificate as a problem gambling counselor to:

1. A person who:

- (a) Is not less than 21 years of age;
- (b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
- (c) Has received a bachelor's degree, master's degree or a doctoral degree from an accredited college or university in a field of social science approved by the Board;
- (d) Has completed not less than 60 hours of training specific to problem gambling approved by the Board;
- (e) Has completed at least 2,000 hours of supervised counseling of problem gamblers in a setting approved by the Board;
- (f) Passes the written examination prescribed by the Board pursuant to NRS 641C.290;
- (g) Presents himself when scheduled for an interview at a meeting of the Board;
- (h) Pays the fees required pursuant to NRS 641C.470; and
- (i) Submits all information required to complete an application for a certificate.

2. A person who:

- (a) Is not less than 21 years of age;
- (b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
- (c) Is licensed as:
  - (1) A clinical social worker pursuant to chapter 641B of NRS;
  - (2) **A clinical professional counselor pursuant to chapter 641A of NRS;**
  - (3) A marriage and family therapist pursuant to chapter 641A of NRS;
  - ~~[(3)]~~ (4) A physician pursuant to chapter 630 of NRS;
  - ~~[(4)]~~ (5) A nurse pursuant to chapter 632 of NRS and has received a master's degree or a doctoral degree from an accredited college or university;
  - ~~[(5)]~~ (6) A psychologist pursuant to chapter 641 of NRS; ~~for~~
  - ~~[(6)]~~ (7) An alcohol and drug abuse counselor pursuant to this chapter;

**or**

(8) **A clinical alcohol and drug abuse counselor pursuant to this chapter;**

- (d) Has completed not less than 60 hours of training specific to problem gambling approved by the Board;

(e) Has completed at least 1,000 hours of supervised counseling of problem gamblers in a setting approved by the Board;

(f) Passes the written examination prescribed by the Board pursuant to NRS 641C.290;

(g) Pays the fees required pursuant to NRS 641C.470; and

(h) Submits all information required to complete an application for a certificate.

Sec. 57. NRS 641C.470 is hereby amended to read as follows:

641C.470 1. The Board shall charge and collect not more than the following fees:

For the initial application for a license or certificate .....	\$150
For the issuance of a provisional license or certificate .....	125
For the issuance of an initial license or certificate .....	60
For the renewal of a license or certificate as an alcohol and drug abuse counselor , <i>a license as a clinical alcohol and drug abuse counselor</i> or a certificate as a problem gambling counselor.....	300
For the renewal of a certificate as <i>a clinical alcohol and drug abuse counselor intern</i> , an alcohol and drug abuse counselor intern or a problem gambling counselor intern .....	75
For the renewal of a delinquent license or certificate .....	75
For the restoration of an expired license or certificate.....	150
For the restoration or reinstatement of a suspended or revoked license or certificate .....	300
For the issuance of a license or certificate without examination .....	150
For an examination .....	150
For the approval of a course of continuing education.....	150

2. The fees charged and collected pursuant to this section are not refundable.

Sec. 58. NRS 641C.700 is hereby amended to read as follows:

641C.700 The grounds for initiating disciplinary action pursuant to the provisions of this chapter include:

1. Conviction of:

(a) A felony relating to the practice of counseling alcohol and drug abusers , *the clinical practice of counseling alcohol and drug abusers* or the practice of counseling problem gamblers;

(b) An offense involving moral turpitude; or

(c) A violation of a federal or state law regulating the possession, distribution or use of a controlled substance or dangerous drug as defined in chapter 453 of NRS;

2. Fraud or deception in:

(a) Applying for a license or certificate;

(b) Taking an examination for a license or certificate;

(c) Documenting the continuing education required to renew or reinstate a license or certificate;

(d) Submitting a claim for payment to an insurer; or

(e) The practice of counseling alcohol and drug abusers ~~{ }~~ ***or the clinical practice of counseling alcohol and drug abusers;***

3. Allowing the unauthorized use of a license or certificate issued pursuant to this chapter;

4. Professional incompetence;

5. The habitual use of alcohol or any other drug that impairs the ability of a licensed or certified counselor or certified intern to engage in the practice of counseling alcohol and drug abusers ~~{ }~~ ***or the clinical practice of counseling alcohol and drug abusers;***

6. Engaging in the practice of counseling alcohol and drug abusers ***or the clinical practice of counseling alcohol and drug abusers*** with an expired, suspended or revoked license or certificate; and

7. Engaging in behavior that is contrary to the ethical standards as set forth in the regulations of the Board.

Sec. 59. NRS 641C.720 is hereby amended to read as follows:

641C.720 1. The Board or any of its members who become aware of any ground for initiating disciplinary action against a person engaging in the practice of counseling alcohol and drug abusers ***or the clinical practice of counseling alcohol and drug abusers*** in this State shall, and any other person who is so aware may, file a written complaint specifying the relevant facts with the Board. The complaint must specifically charge one or more of the grounds for initiating disciplinary action.

2. If, after notice and a hearing as required by law, the Board determines that a licensed or certified counselor or certified intern has violated a provision of this chapter or any regulation adopted pursuant to this chapter, it may:

(a) Administer a public reprimand;

(b) Suspend his license or certificate and impose conditions for the removal of the suspension;

(c) Revoke his license or certificate and prescribe the requirements for the reinstatement of the license or certificate;

(d) If he is a licensed or certified counselor, require him to be supervised by another person while he engages in the practice of counseling alcohol and drug abusers ~~{ }~~ ***or the clinical practice of counseling alcohol and drug abusers;***

(e) Require him to participate in treatment or counseling and pay the expenses of that treatment or counseling;

(f) Require him to pay restitution to any person adversely affected by his acts or omissions;

(g) Impose a fine of not more than \$5,000; or

(h) Take any combination of the actions authorized by paragraphs (a) to (g), inclusive.

3. If his license or certificate is revoked or suspended pursuant to subsection 2, the licensed or certified counselor or certified intern may apply

to the Board for reinstatement of the suspended license or certificate or may apply to the Board pursuant to the provisions of chapter 622A of NRS for reinstatement of his revoked license or certificate. The Board may accept or reject the application and may require the successful completion of an examination as a condition of reinstatement of the license or certificate.

4. The Board shall not administer a private reprimand.

5. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 60. NRS 641C.900 is hereby amended to read as follows:

641C.900 1. Except as otherwise provided in subsection 2, a person shall not engage in the practice of counseling alcohol and drug abusers, *the clinical practice of counseling alcohol and drug abusers* or the practice of counseling problem gamblers unless he is a licensed counselor, certified counselor or certified intern.

2. A person may engage in the practice of counseling alcohol and drug abusers under the supervision of a licensed counselor, *the clinical practice of counseling alcohol and drug abusers under the supervision of a clinical alcohol and drug abuse counselor* or the practice of counseling problem gamblers under the supervision of a certified counselor for not more than 30 days if that person:

(a) Is qualified to be licensed or certified pursuant to the provisions of this chapter; and

(b) Submits an application to the Board for a license or certificate pursuant to the provisions of this chapter.

Sec. 61. NRS 641C.910 is hereby amended to read as follows:

641C.910 1. A person shall not:

(a) Hold himself out to a member of the general public as *a clinical alcohol and drug abuse counselor, a clinical alcohol and drug abuse counselor intern*, an alcohol and drug abuse counselor, *an* alcohol and drug abuse counselor intern, *a* problem gambling counselor or *a* problem gambling counselor intern;

(b) Use the title *“clinical alcohol and drug abuse counselor,” “clinical alcohol and drug abuse counselor intern,”* “alcohol and drug abuse counselor,” “alcohol and drug abuse counselor intern,” “drug abuse counselor,” “substance abuse counselor,” “problem gambling counselor,” “problem gambling counselor intern,” “gambling counselor,” “detoxification technician” or any similar title in connection with his work; or

(c) Imply in any way that he is licensed or certified by the Board, ➤ unless he is licensed or certified by the Board pursuant to the provisions of this chapter or a regulation adopted pursuant to NRS 641C.500.

2. If the Board believes that any person has violated or is about to violate any provision of this chapter or a regulation adopted pursuant thereto, it may bring an action in a court of competent jurisdiction to enjoin the person from engaging in or continuing the violation. An injunction:

(a) May be issued without proof of actual damage sustained by any person.

(b) Does not prevent the criminal prosecution and punishment of a person who violates a provision of this chapter or a regulation adopted pursuant thereto.

Sec. 62. Chapter 49 of NRS is hereby amended by adding thereto the provisions set forth as sections 63 to 66, inclusive, of this act.

Sec. 63. *As used in sections 63 to 66, inclusive, of this act, unless the context otherwise requires:*

1. *"Client" means a person who consults or is interviewed by a clinical professional counselor for the purpose of diagnosis or treatment.*

2. *"Clinical professional counselor" has the meaning ascribed to it in section 6 of this act ~~and~~ and includes a clinical professional counselor intern.*

3. *A communication is "confidential" if it is not intended to be disclosed to any third person other than a person:*

*(a) Present during the consultation or interview to further the interest of the client;*

*(b) Reasonably necessary for the transmission of the communication; or*

*(c) Participating in the diagnosis or treatment under the direction of the clinical professional counselor, including a member of the client's family.*

Sec. 64. *A client has a privilege to refuse to disclose, and to prevent any other person from disclosing, confidential communications among himself, his clinical professional counselor or any other person who is participating in the diagnosis or treatment under the direction of the clinical professional counselor.*

Sec. 65. 1. *The privilege may be claimed by the client, by his guardian or conservator, or by the personal representative of a deceased client.*

2. *The person who was the clinical professional counselor may claim the privilege but only on behalf of the client. The authority of the clinical professional counselor to do so is presumed in the absence of evidence to the contrary.*

Sec. 66. *There is no privilege under section 64 or 65 of this act:*

1. *If the client communicates to the clinical professional counselor that he intends or plans to commit what the client knows or reasonably should know is a crime.*

2. *If the clinical professional counselor is required to testify in an administrative or court-related investigation or proceeding involving the welfare of his client or the minor children of his client.*

3. *For communications relevant to an issue in proceedings to hospitalize the ~~patient~~ client for mental illness, if the clinical professional counselor in the course of diagnosis or treatment has determined that the client is in need of hospitalization.*

**4. As to communications relevant to an issue of the treatment of the client in any proceeding in which the treatment is an element of a claim or defense.**

Sec. 67. NRS 62A.270 is hereby amended to read as follows:

62A.270 "Qualified professional" means:

1. A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc.;
2. A psychologist licensed to practice in this State;
3. A social worker holding a master's degree in social work and licensed in this State as a clinical social worker;
4. A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State; ~~for~~
5. A marriage and family therapist licensed in this State pursuant to chapter 641A of NRS ~~for~~; **or**

**6. A clinical professional counselor licensed in this State pursuant to chapter 641A of NRS.**

Sec. 68. NRS 62E.620 is hereby amended to read as follows:

62E.620 1. The juvenile court shall order a delinquent child to undergo an evaluation to determine whether the child is an abuser of alcohol or other drugs if the child committed:

- (a) An unlawful act in violation of NRS 484.379, 484.3795 or 484.37955;
- (b) The unlawful act of using, possessing, selling or distributing a controlled substance; or
- (c) The unlawful act of purchasing, consuming or possessing an alcoholic beverage in violation of NRS 202.020.

2. Except as otherwise provided in subsection 3, an evaluation of the child must be conducted by:

- (a) ~~An~~ **A clinical alcohol and drug abuse counselor who is licensed, an alcohol and drug abuse counselor who is licensed or certified, or an alcohol and drug abuse counselor intern** **or a clinical alcohol and drug abuse counselor intern** who is certified, pursuant to chapter 641C of NRS, ~~to~~ to make that classification; or

- (b) A physician who is certified to make that classification by the Board of Medical Examiners.

3. If the child resides in this State but the nearest location at which an evaluation may be conducted is in another state, the court may allow the evaluation to be conducted in the other state if the person conducting the evaluation:

- (a) Possesses qualifications that are substantially similar to the qualifications described in subsection 2;
  - (b) Holds an appropriate license, certificate or credential issued by a regulatory agency in the other state; and
  - (c) Is in good standing with the regulatory agency in the other state.
4. The evaluation of the child may be conducted at an evaluation center.



5. The person who conducts the evaluation of the child shall report to the juvenile court the results of the evaluation and make a recommendation to the juvenile court concerning the length and type of treatment required for the child.

6. The juvenile court shall:

(a) Order the child to undergo a program of treatment as recommended by the person who conducts the evaluation of the child.

(b) Require the treatment facility to submit monthly reports on the treatment of the child pursuant to this section.

(c) Order the child or the parent or guardian of the child, or both, to the extent of their financial ability, to pay any charges relating to the evaluation and treatment of the child pursuant to this section. If the child or the parent or guardian of the child, or both, do not have the financial resources to pay all those charges:

(1) The juvenile court shall, to the extent possible, arrange for the child to receive treatment from a treatment facility which receives a sufficient amount of federal or state money to offset the remainder of the costs; and

(2) The juvenile court may order the child, in lieu of paying the charges relating to his evaluation and treatment, to perform community service.

7. After a treatment facility has certified a child's successful completion of a program of treatment ordered pursuant to this section, the treatment facility is not liable for any damages to person or property caused by a child who:

(a) Drives, operates or is in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance; or

(b) Engages in any other conduct prohibited by NRS 484.379, 484.3795, 484.37955, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425 or a law of any other jurisdiction that prohibits the same or similar conduct.

8. The provisions of this section do not prohibit the juvenile court from:

(a) Requiring an evaluation to be conducted by a person who is employed by a private company if the company meets the standards of the Health Division of the Department of Health and Human Services. The evaluation may be conducted at an evaluation center.

(b) Ordering the child to attend a program of treatment which is administered by a private company.

9. All information relating to the evaluation or treatment of a child pursuant to this section is confidential and, except as otherwise authorized by the provisions of this title or the juvenile court, must not be disclosed to any person other than:

(a) The juvenile court;

(b) The child;

(c) The attorney for the child, if any;

(d) The parents or guardian of the child;

(e) The district attorney; and

(f) Any other person for whom the communication of that information is necessary to effectuate the evaluation or treatment of the child.

10. A record of any finding that a child has violated the provisions of NRS 484.379, 484.3795 or 484.37955 must be included in the driver's record of that child for 7 years after the date of the offense.

Sec. 69. NRS 89.050 is hereby amended to read as follows:

89.050 1. Except as otherwise provided in subsection 2, a professional corporation may be organized only for the purpose of rendering one specific type of professional service and may not engage in any business other than rendering the professional service for which it was organized and services reasonably related thereto, except that a professional corporation may own real and personal property appropriate to its business and may invest its money in any form of real property, securities or any other type of investment.

2. A professional corporation may be organized to render a professional service relating to:

(a) Architecture, interior design, residential design, engineering and landscape architecture, or any combination thereof, and may be composed of persons:

(1) Engaged in the practice of architecture as provided in chapter 623 of NRS;

(2) Practicing as a registered interior designer as provided in chapter 623 of NRS;

(3) Engaged in the practice of residential design as provided in chapter 623 of NRS;

(4) Engaged in the practice of landscape architecture as provided in chapter 623A of NRS; and

(5) Engaged in the practice of professional engineering as provided in chapter 625 of NRS.

(b) Medicine, homeopathy and osteopathy, and may be composed of persons engaged in the practice of medicine as provided in chapter 630 of NRS, persons engaged in the practice of homeopathic medicine as provided in chapter 630A of NRS and persons engaged in the practice of osteopathic medicine as provided in chapter 633 of NRS. Such a professional corporation may market and manage additional professional corporations which are organized to render a professional service relating to medicine, homeopathy and osteopathy.

(c) Mental health services, and may be composed of the following persons, in any number and in any combination:

(1) Any psychologist who is licensed to practice in this State;

(2) Any social worker who holds a master's degree in social work and who is licensed by this State as a clinical social worker;

(3) Any registered nurse who is licensed to practice professional nursing in this State and who holds a master's degree in the field of psychiatric nursing; ~~and~~

(4) Any marriage and family therapist who is licensed by this State pursuant to chapter 641A of NRS ~~176~~; **and**

**(5) Any clinical professional counselor who is licensed by this State pursuant to chapter 641A of NRS.**

➡ Such a professional corporation may market and manage additional professional corporations which are organized to render a professional service relating to mental health services pursuant to this paragraph.

3. A professional corporation may render a professional service only through its officers and employees who are licensed or otherwise authorized by law to render the professional service.

Sec. 70. NRS 176.133 is hereby amended to read as follows:

176.133 As used in NRS 176.133 to 176.159, inclusive, unless the context otherwise requires:

1. "Person professionally qualified to conduct psychosexual evaluations" means a person who has received training in conducting psychosexual evaluations and is:

(a) A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc.;

(b) A psychologist licensed to practice in this State;

(c) A social worker holding a master's degree in social work and licensed in this State as a clinical social worker;

(d) A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State; ~~176~~

(e) A marriage and family therapist licensed in this State pursuant to chapter 641A of NRS ~~176~~; **or**

**(f) A clinical professional counselor licensed in this State pursuant to chapter 641A of NRS.**

2. "Psychosexual evaluation" means an evaluation conducted pursuant to NRS 176.139.

3. "Sexual offense" means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Statutory sexual seduction pursuant to NRS 200.368, if punished as a felony;

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(d) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation and is punished as a felony;

(e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(f) Incest pursuant to NRS 201.180;

(g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195, if punished as a felony;

(h) Open or gross lewdness pursuant to NRS 201.210, if punished as a felony;

(i) Indecent or obscene exposure pursuant to NRS 201.220, if punished as a felony;

- (j) Lewdness with a child pursuant to NRS 201.230;
- (k) Sexual penetration of a dead human body pursuant to NRS 201.450;
- (l) Luring a child or mentally ill person pursuant to NRS 201.560, if punished as a felony;
- (m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive, if punished as a felony; or
- (n) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

Sec. 71. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

- (a) "Assault" means intentionally placing another person in reasonable apprehension of immediate bodily harm.
  - (b) "Officer" means:
    - (1) A person who possesses some or all of the powers of a peace officer;
    - (2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;
    - (3) A member of a volunteer fire department;
    - (4) A jailer, guard, matron or other correctional officer of a city or county jail;
    - (5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or
    - (6) An employee of the State or a political subdivision of the State whose official duties require him to make home visits.
  - (c) "Provider of health care" means a physician, a physician assistant, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, an osteopathic physician's assistant, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist ~~and~~, ***a clinical professional counselor , a clinical professional counselor intern and*** an emergency medical technician.
  - (d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.
  - (e) "Sporting event" has the meaning ascribed to it in NRS 41.630.
  - (f) "Sports official" has the meaning ascribed to it in NRS 41.630.
  - (g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.
  - (h) "Taxicab driver" means a person who operates a taxicab.
  - (i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.
2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) ~~{of this subsection}~~ does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a category B felony 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.

(c) If paragraph (d) ~~{of this subsection}~~ does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event, and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony 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.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony 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.

Sec. 72. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and family therapist, *clinical professional counselor, clinical alcohol and drug abuse counselor*, alcohol ~~for~~ and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Any employee of the Department of Health and Human Services.

(g) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(h) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(i) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect,

exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(j) Every social worker.

(k) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney and the Aging Services Division of the Department of Health and Human Services his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded to the Aging Services Division within 90 days after the completion of the report.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 73. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and family therapist, ***clinical professional counselor, clinical alcohol and drug abuse counselor***, alcohol ~~for~~ and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 74. NRS 209.448 is hereby amended to read as follows:

209.448 1. An offender who has no serious infraction of the regulations of the Department or the laws of the State recorded against him must be



allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of not more than 30 days from the maximum term of his sentence for the successful completion of a program of treatment for the abuse of alcohol or drugs which is conducted jointly by the Department and a person who is licensed ***as a clinical alcohol and drug abuse counselor, licensed*** or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern ***or a clinical alcohol and drug abuse counselor intern***, pursuant to chapter 641C of NRS.

2. The provisions of this section apply to any offender who is sentenced on or after October 1, 1991.

Sec. 75. NRS 211.340 is hereby amended to read as follows:

211.340 1. In addition to the credits on a term of imprisonment provided for in NRS 211.310, 211.320 and 211.330, the sheriff of the county or the chief of police of the municipality in which a prisoner is incarcerated may deduct not more than 5 days from his term of imprisonment if the prisoner:

(a) Successfully completes a program of treatment for the abuse of alcohol or drugs which is conducted jointly by the local detention facility in which he is incarcerated and a person who is licensed ***as a clinical alcohol and drug abuse counselor, licensed*** or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern ***or a clinical alcohol and drug abuse counselor intern***, pursuant to chapter 641C of NRS; and

(b) Is awarded a certificate evidencing his successful completion of the program.

2. The provisions of this section apply to any prisoner who is sentenced on or after October 1, 1991, to a term of imprisonment of 90 days or more.

Sec. 76. NRS 372.7285 is hereby amended to read as follows:

372.7285 1. In administering the provisions of NRS 372.325, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged and disabled persons established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, ***licensed clinical professional counselor***, chiropractor or doctor of Oriental medicine in any form.

Sec. 77. NRS 374.731 is hereby amended to read as follows:

374.731 1. In administering the provisions of NRS 374.330, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged and disabled persons established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, ***licensed clinical professional counselor***, chiropractor or doctor of Oriental medicine in any form.

Sec. 78. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of his home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and family therapist, *clinical professional counselor*, *clinical alcohol and drug abuse counselor*, alcohol ~~for~~ and drug abuse counselor, clinical social worker, athletic trainer, advanced emergency medical technician or other person providing medical services licensed or certified in this State.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of suspected abuse or neglect of a child by a member of the staff of the hospital.

(c) A coroner.

(d) A clergyman, practitioner of Christian Science or religious healer, unless he has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A social worker and an administrator, teacher, librarian or counselor of a school.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) An attorney, unless he has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for an approved youth shelter. As used in this paragraph, "approved youth shelter" has the meaning ascribed to it in NRS 244.422.

(l) Any adult person who is employed by an entity that provides organized activities for children.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the report and submit to an agency which provides child welfare services his written findings. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 79. NRS 433.209 is hereby amended to read as follows:

433.209 "Person professionally qualified in the field of psychiatric mental health" means:

1. A psychiatrist licensed to practice medicine in the State of Nevada and certified by the American Board of Psychiatry and Neurology;

2. A psychologist licensed to practice in this State;

3. A social worker who holds a master's degree in social work, is licensed by the State as a clinical social worker and is employed by the Division;

4. A registered nurse who:

(a) Is licensed to practice professional nursing in this State;

(b) Holds a master's degree in the field of psychiatric nursing; and

(c) Is employed by the Division ~~[-]~~;

5. A marriage and family therapist licensed pursuant to chapter 641A of NRS ; *or*

6. *A clinical professional counselor licensed pursuant to chapter 641A of NRS.*

Sec. 80. NRS 433.265 is hereby amended to read as follows:

433.265 Any person employed by the Division as a psychiatrist, psychologist, marriage and family therapist, ***clinical professional counselor***, registered nurse or social worker must be licensed or certified by the appropriate state licensing board for his respective profession.

Sec. 81. NRS 433A.018 is hereby amended to read as follows:

433A.018 "Person professionally qualified in the field of psychiatric mental health" means:

1. A psychiatrist licensed to practice medicine in this State who is certified by the American Board of Psychiatry and Neurology;

2. A psychologist licensed to practice in this State;

3. A social worker who holds a master's degree in social work, is licensed by the State as a clinical social worker and is employed by the Division;

4. A registered nurse who:

(a) Is licensed to practice professional nursing in this State;

(b) Holds a master's degree in the field of psychiatric nursing; and

(c) Is employed by the Division; ~~{or}~~

5. A marriage and family therapist licensed pursuant to chapter 641A of NRS ; *or*

6. *A clinical professional counselor licensed pursuant to chapter 641A of NRS.*

Sec. 82. NRS 433A.160 is hereby amended to read as follows:

433A.160 1. Except as otherwise provided in subsection 2, an application for the emergency admission of an allegedly mentally ill person for evaluation, observation and treatment may only be made by an accredited agent of the Department, an officer authorized to make arrests in the State of Nevada or a physician, psychologist, marriage and family therapist, ***clinical professional counselor***, social worker or registered nurse. The agent, officer, physician, psychologist, marriage and family therapist, ***clinical professional counselor***, social worker or registered nurse may:

(a) Without a warrant:

(1) Take an allegedly mentally ill person into custody to apply for the emergency admission of the person for evaluation, observation and treatment; and

(2) Transport the allegedly mentally ill person to a public or private mental health facility or hospital for that purpose, or arrange for the person to be transported by:

(I) A local law enforcement agency;

(II) A system for the nonemergency medical transportation of persons whose operation is authorized by the Transportation Services Authority;

(III) An entity that is exempt pursuant to NRS 706.745 from the provisions of NRS 706.386 or 706.421; or

(IV) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

➔ only if the agent, officer, physician, psychologist, marriage and family therapist, ***clinical professional counselor***, social worker or registered nurse has, based upon his personal observation of the allegedly mentally ill person, probable cause to believe that the person is a mentally ill person and, because of that illness, is likely to harm himself or others if allowed his liberty.

(b) Apply to a district court for an order requiring:

(1) Any peace officer to take an allegedly mentally ill person into custody to allow the applicant for the order to apply for the emergency admission of the allegedly mentally ill person for evaluation, observation and treatment; and

(2) Any agency, system or service described in subparagraph (2) of paragraph (a) to transport the allegedly mentally ill person to a public or private mental health facility or hospital for that purpose.

➔ The district court may issue such an order only if it is satisfied that there is probable cause to believe that the allegedly mentally ill person is a mentally ill person and, because of that illness, is likely to harm himself or others if allowed his liberty.

2. An application for the emergency admission of an allegedly mentally ill person for evaluation, observation and treatment may be made by a spouse, parent, adult child or legal guardian of the person. The spouse, parent, adult child or legal guardian and any other person who has a legitimate interest in the allegedly mentally ill person may apply to a district court for an order described in paragraph (b) of subsection 1.

3. The application for the emergency admission of an allegedly mentally ill person for evaluation, observation and treatment must reveal the circumstances under which the person was taken into custody and the reasons therefor.

4. ~~{As used in subsection 1, “an accredited agent of the Department” means any person appointed or designated by the Director of the Department to take into custody and transport to a mental health facility pursuant to subsections 1 and 2 those persons in need of emergency admission.~~

5.} Except as otherwise provided in this subsection, each person admitted to a public or private mental health facility or hospital under an emergency admission must be evaluated at the time of admission by a psychiatrist or a psychologist. If a psychiatrist or a psychologist is not available to conduct an evaluation at the time of admission, a physician may conduct the evaluation. Each such emergency admission must be approved by a psychiatrist.

5. As used in this section, “an accredited agent of the Department” means any person appointed or designated by the Director of the Department to take into custody and transport to a mental health facility

*pursuant to subsections 1 and 2 those persons in need of emergency admission.*

Sec. 83. NRS 433B.090 is hereby amended to read as follows:

433B.090 "Person professionally qualified in the field of psychiatric mental health" means:

1. A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology;
2. A psychologist licensed to practice in this State;
3. A social worker who holds a master's degree in social work, is licensed by the State as a clinical social worker and is employed by the Division;
4. A registered nurse who:
  - (a) Is licensed to practice professional nursing in this State;
  - (b) Holds a master's degree in the field of psychiatric nursing; and
  - (c) Is employed by the Division or the Division of Mental Health and Developmental Services of the Department; ~~for~~
5. A marriage and family therapist licensed pursuant to chapter 641A of NRS; *or*

*6. A clinical professional counselor licensed pursuant to chapter 641A of NRS.*

Sec. 84. NRS 433B.160 is hereby amended to read as follows:

433B.160 1. A person employed by the Division as a psychiatrist, psychologist, marriage and family therapist, ***clinical professional counselor***, registered nurse or social worker must be licensed or certified by the appropriate state licensing board for his respective profession.

2. Any psychiatrist who is employed by the Division must be certified by the American Board of Psychiatry and Neurology within 5 years after his first date of employment with the Division. The Administrator shall terminate the employment of any psychiatrist who fails to receive that certification.

Sec. 85. NRS 433B.170 is hereby amended to read as follows:

433B.170 The Administrator shall not employ any psychiatrist, psychologist, social worker, registered nurse, ***clinical professional counselor*** or marriage and family therapist who is unable to demonstrate proficiency in the oral and written expression of the English language.

Sec. 86. NRS 442.003 is hereby amended to read as follows:

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

1. "Advisory Board" means the Advisory Board on Maternal and Child Health.
2. "Department" means the Department of Health and Human Services.
3. "Director" means the Director of the Department.
4. "Fetal alcohol syndrome" includes fetal alcohol effects.
5. "Health Division" means the Health Division of the Department.
6. "Obstetric center" has the meaning ascribed to it in NRS 449.0155.
7. "Provider of health care or other services" means:

(a) ~~{An}~~ ***A clinical alcohol and drug abuse counselor who is licensed, or*** ***an*** alcohol and drug abuse counselor who is licensed or certified, pursuant to chapter 641C of NRS;

(b) A physician or a physician assistant who is licensed pursuant to chapter 630 or an osteopathic physician who is licensed pursuant to chapter 633 of NRS and who practices in the area of obstetrics and gynecology, family practice, internal medicine, pediatrics or psychiatry;

(c) A licensed nurse;

(d) A licensed psychologist;

(e) A licensed marriage and family therapist;

(f) ***A licensed clinical professional counselor;***

(g) A licensed social worker; or

~~{(g)}~~ ***(h)*** The holder of a certificate of registration as a pharmacist.

Sec. 87. NRS 484.37937 is hereby amended to read as follows:

484.37937 1. An offender who is found guilty of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792, other than an offender who is found to have a concentration of alcohol of 0.18 or more in his blood or breath, may, at that time or any time before he is sentenced, apply to the court to undergo a program of treatment for alcoholism or drug abuse which is certified by the Health Division of the Department of Health and Human Services for at least 6 months. The court shall authorize that treatment if:

(a) The offender is diagnosed as an alcoholic or abuser of drugs by:

(1) An alcohol and drug abuse counselor who is licensed or certified, ***or a clinical alcohol and drug abuse counselor who is licensed,*** pursuant to chapter 641C of NRS, to make that diagnosis; or

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners;

(b) The offender agrees to pay the cost of the treatment to the extent of his financial resources; and

(c) The offender has served or will serve a term of imprisonment in jail of 1 day, or has performed or will perform 24 hours of community service.

2. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the question of whether the offender is eligible to undergo a program of treatment for alcoholism or drug abuse. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion. The hearing must be limited to the question of whether the offender is eligible to undergo such a program of treatment.

3. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter upon affidavits and other information before the court.

4. If the court grants an application for treatment, the court shall:

(a) Immediately sentence the offender and enter judgment accordingly.



(b) Suspend the sentence of the offender for not more than 3 years upon the condition that the offender be accepted for treatment by a treatment facility, that he complete the treatment satisfactorily and that he comply with any other condition ordered by the court.

(c) Advise the offender that:

(1) If he is accepted for treatment by such a facility, he may be placed under the supervision of the facility for a period not to exceed 3 years and during treatment he may be confined in an institution or, at the discretion of the facility, released for treatment or supervised aftercare in the community.

(2) If he is not accepted for treatment by such a facility or he fails to complete the treatment satisfactorily, he shall serve the sentence imposed by the court. Any sentence of imprisonment must be reduced by a time equal to that which he served before beginning treatment.

(3) If he completes the treatment satisfactorily, his sentence will be reduced to a term of imprisonment which is no longer than that provided for the offense in paragraph (c) of subsection 1 and a fine of not more than the minimum fine provided for the offense in NRS 484.3792, but the conviction must remain on his record of criminal history.

5. The court shall administer the program of treatment pursuant to the procedures provided in NRS 458.320 and 458.330, except that the court:

(a) Shall not defer the sentence, set aside the conviction or impose conditions upon the election of treatment except as otherwise provided in this section.

(b) May immediately revoke the suspension of sentence for a violation of any condition of the suspension.

6. The court shall notify the Department, on a form approved by the Department, upon granting the application of the offender for treatment and his failure to be accepted for or complete treatment.

Sec. 88. NRS 484.3794 is hereby amended to read as follows:

484.3794 1. An offender who is found guilty of a violation of NRS 484.379 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792 may, at that time or any time before he is sentenced, apply to the court to undergo a program of treatment for alcoholism or drug abuse which is certified by the Health Division of the Department of Health and Human Services for at least 1 year if:

(a) The offender is diagnosed as an alcoholic or abuser of drugs by:

(1) An alcohol and drug abuse counselor who is licensed or certified, *or a clinical alcohol and drug abuse counselor who is licensed*, pursuant to chapter 641C of NRS, to make that diagnosis; or

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners;

(b) The offender agrees to pay the costs of the treatment to the extent of his financial resources; and

(c) The offender has served or will serve a term of imprisonment in jail of 5 days and, if required pursuant to NRS 484.3792, has performed or will perform not less than one-half of the hours of community service.

2. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the matter. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion.

3. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter upon affidavits and other information before the court.

4. If the court determines that an application for treatment should be granted, the court shall:

(a) Immediately sentence the offender and enter judgment accordingly.

(b) Suspend the sentence of the offender for not more than 3 years upon the condition that the offender be accepted for treatment by a treatment facility, that he complete the treatment satisfactorily and that he comply with any other condition ordered by the court.

(c) Advise the offender that:

(1) If he is accepted for treatment by such a facility, he may be placed under the supervision of the facility for a period not to exceed 3 years and during treatment he may be confined in an institution or, at the discretion of the facility, released for treatment or supervised aftercare in the community.

(2) If he is not accepted for treatment by such a facility or he fails to complete the treatment satisfactorily, he shall serve the sentence imposed by the court. Any sentence of imprisonment must be reduced by a time equal to that which he served before beginning treatment.

(3) If he completes the treatment satisfactorily, his sentence will be reduced to a term of imprisonment which is no longer than that provided for the offense in paragraph (c) of subsection 1 and a fine of not more than the minimum provided for the offense in NRS 484.3792, but the conviction must remain on his record of criminal history.

5. The court shall administer the program of treatment pursuant to the procedures provided in NRS 458.320 and 458.330, except that the court:

(a) Shall not defer the sentence, set aside the conviction or impose conditions upon the election of treatment except as otherwise provided in this section.

(b) May immediately revoke the suspension of sentence for a violation of a condition of the suspension.

6. The court shall notify the Department, on a form approved by the Department, upon granting the application of the offender for treatment and his failure to be accepted for or complete treatment.

Sec. 89. NRS 484.37943 is hereby amended to read as follows:

484.37943 1. If an offender is found guilty of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS

484.3792 and if the concentration of alcohol in the offender's blood or breath at the time of the offense was 0.18 or more, or if an offender is found guilty of a violation of NRS 484.379 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792, the court shall, before sentencing the offender, require an evaluation of the offender pursuant to subsection 3, 4, 5 or 6 to determine whether he is an abuser of alcohol or other drugs.

2. If an offender is convicted of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792 and if the offender is under 21 years of age at the time of the violation, the court shall, before sentencing the offender, require an evaluation of the offender pursuant to subsection 3, 4, 5 or 6 to determine whether he is an abuser of alcohol or other drugs.

3. Except as otherwise provided in subsection 4, 5 or 6, the evaluation of an offender pursuant to this section must be conducted at an evaluation center by:

(a) An alcohol and drug abuse counselor who is licensed or certified, *or a clinical alcohol and drug abuse counselor who is licensed*, pursuant to chapter 641C of NRS, to make that evaluation; or

(b) A physician who is certified to make that evaluation by the Board of Medical Examiners,

↳ who shall report to the court the results of the evaluation and make a recommendation to the court concerning the length and type of treatment required for the offender.

4. The evaluation of an offender who resides more than 30 miles from an evaluation center may be conducted outside an evaluation center by a person who has the qualifications set forth in subsection 3. The person who conducts the evaluation shall report to the court the results of the evaluation and make a recommendation to the court concerning the length and type of treatment required for the offender.

5. The evaluation of an offender who resides in another state may, upon approval of the court, be conducted in the state where the offender resides by a physician or other person who is authorized by the appropriate governmental agency in that state to conduct such an evaluation. The offender shall ensure that the results of the evaluation and the recommendation concerning the length and type of treatment for the offender are reported to the court.

6. The evaluation of an offender who resides in this State may, upon approval of the court, be conducted in another state by a physician or other person who is authorized by the appropriate governmental agency in that state to conduct such an evaluation if the location of the physician or other person in the other state is closer to the residence of the offender than the nearest location in this State at which an evaluation may be conducted. The offender shall ensure that the results of the evaluation and the recommendation concerning the length and type of treatment for the offender are reported to the court.

7. An offender who is evaluated pursuant to this section shall pay the cost of the evaluation. An evaluation center or a person who conducts an evaluation in this State outside an evaluation center shall not charge an offender more than \$100 for the evaluation.

Sec. 90. NRS 484.3796 is hereby amended to read as follows:

484.3796 1. Before sentencing an offender for a violation of NRS 484.379 that is punishable as a felony pursuant to NRS 484.3792 or a violation of NRS 484.3795 or 484.37955, the court shall require that the offender be evaluated to determine whether he is an abuser of alcohol or drugs and whether he can be treated successfully for his condition.

2. The evaluation must be conducted by:

(a) An alcohol and drug abuse counselor who is licensed or certified, *or a clinical alcohol and drug abuse counselor who is licensed*, pursuant to chapter 641C of NRS, to make such an evaluation;

(b) A physician who is certified to make such an evaluation by the Board of Medical Examiners; or

(c) A psychologist who is certified to make such an evaluation by the Board of Psychological Examiners.

3. The alcohol and drug abuse counselor, *clinical alcohol and drug abuse counselor*, physician or psychologist who conducts the evaluation shall immediately forward the results of the evaluation to the Director of the Department of Corrections.

Sec. 91. NRS 488.430 is hereby amended to read as follows:

488.430 1. Before sentencing a defendant pursuant to NRS 488.420, 488.425 or 488.427, the court shall require that the defendant be evaluated to determine whether he is an abuser of alcohol or drugs and whether he can be treated successfully for his condition.

2. The evaluation must be conducted by:

(a) An alcohol and drug abuse counselor who is licensed or certified, *or a clinical alcohol and drug abuse counselor who is licensed*, pursuant to chapter 641C of NRS, to make such an evaluation;

(b) A physician who is certified to make such an evaluation by the Board of Medical Examiners; or

(c) A psychologist who is certified to make such an evaluation by the Board of Psychological Examiners.

3. The alcohol and drug abuse counselor, *clinical alcohol and drug abuse counselor*, physician or psychologist who conducts the evaluation shall immediately forward the results of the evaluation to the Director of the Department of Corrections.

Sec. 92. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

*If any policy of health insurance provides coverage for treatment of an illness which is within the authorized scope of practice of a licensed clinical alcohol and drug abuse counselor, the insured is entitled to*

*reimbursement for treatment by a clinical alcohol and drug abuse counselor who is licensed pursuant to chapter 641C of NRS.*

Sec. 93. NRS 689A.0483 is hereby amended to read as follows:

689A.0483 If any policy of health insurance provides coverage for treatment of an illness which is within the authorized scope of ~~the~~ practice of a licensed marriage and family therapist ~~or~~ *or licensed clinical professional counselor*, the insured is entitled to reimbursement for treatment by a marriage and family therapist *or clinical professional counselor* who is licensed pursuant to chapter 641A of NRS.

Sec. 94. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

*If any policy of group health insurance provides coverage for treatment of an illness which is within the authorized scope of practice of a licensed clinical alcohol and drug abuse counselor, the insured is entitled to reimbursement for treatment by a clinical alcohol and drug abuse counselor who is licensed pursuant to chapter 641C of NRS.*

Sec. 95. NRS 689B.0383 is hereby amended to read as follows:

689B.0383 If any policy of group health insurance provides coverage for treatment of an illness which is within the authorized scope of ~~the~~ practice of a licensed marriage and family therapist ~~or~~ *or licensed clinical professional counselor*, the insured is entitled to reimbursement for treatment by a marriage and family therapist *or clinical professional counselor* who is licensed pursuant to chapter 641A of NRS.

Sec. 96. Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:

*If any contract for hospital or medical service provides coverage for treatment of an illness which is within the authorized scope of practice of a licensed clinical alcohol and drug abuse counselor, the insured is entitled to reimbursement for treatment by a clinical alcohol and drug abuse counselor who is licensed pursuant to chapter 641C of NRS.*

Sec. 97. NRS 695B.1973 is hereby amended to read as follows:

695B.1973 If any contract for hospital or medical service provides coverage for treatment of an illness which is within the authorized scope of ~~the~~ practice of a licensed marriage and family therapist ~~or~~ *or licensed clinical professional counselor*, the insured is entitled to reimbursement for treatment by a marriage and family therapist *or clinical professional counselor* who is licensed pursuant to chapter 641A of NRS.

Sec. 98. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

*If any evidence of coverage provides coverage for treatment of an illness which is within the authorized scope of practice of a licensed clinical alcohol and drug abuse counselor, the insured is entitled to reimbursement for treatment by a clinical alcohol and drug abuse counselor who is licensed pursuant to chapter 641C of NRS.*

Sec. 99. NRS 695C.1773 is hereby amended to read as follows:

695C.1773 If any evidence of coverage provides coverage for treatment of an illness which is within the authorized scope of ~~the~~ practice of a licensed marriage and family therapist ~~[-]~~ **or licensed clinical professional counselor**, the insured is entitled to reimbursement for treatment by a marriage and family therapist **or clinical professional counselor** who is licensed pursuant to chapter 641A of NRS.

**Sec. 99.5. Section 8 of this act is hereby amended to read as follows:**

Sec. 8. Each applicant for a license to practice as a clinical professional counselor must furnish evidence satisfactory to the Board that he:

1. Is at least 21 years of age;
2. Is of good moral character;
3. Is a citizen of the United States, or is lawfully entitled to remain and work in the United States;

4. Has:

(a) Completed his residency training in psychiatry from an accredited institution approved by the Board;

(b) A graduate degree from a program approved by the Council for Accreditation of Counseling and Related Educational Programs as a program in mental health counseling or community counseling; or

(c) An acceptable degree as determined by the Board which includes the completion of a practicum and internship in mental health counseling which was taken concurrently with the degree program and was supervised by a licensed mental health professional; and

5. Has:

(a) At least 2 years of postgraduate experience in professional counseling;

(b) At least 3,000 hours of supervised experience in professional counseling which includes, without limitation:

(1) At least 1,500 hours of direct contact with clients; and

(2) At least 100 hours of counseling under the direct supervision of an approved supervisor of which at least 1 hour per week was completed for each work setting at which the applicant provided counseling; and

(c) ~~Either:~~

~~(1) Passed the National Counselor Examination for Licensure and Certification which is administered by the National Board for Certified Counselors and provided evidence satisfactory to the Board of at least 3 years of work experience in mental health counseling; or~~

~~(2) Passed the National Clinical Mental Health Counseling Examination which is administered by the National Board for Certified Counselors.~~

Sec. 100. 1. As soon as practicable on or after July 1, 2007, the Governor shall, pursuant to paragraph (b) of subsection 1 of NRS 641A.100, as amended by section 16 of this act, appoint to the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors:

- (a) One member whose term ends on June 30, 2010; and
- (b) One member whose term ends on June 30, 2011.

**2. As soon as practicable on or after July 1, 2008, the Governor shall, pursuant to paragraph (b) of subsection 1 of NRS 641A.100, as amended by section 16.5 of this act, appoint to the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors one member whose term ends on June 30, 2012.**

**3. Notwithstanding the provisions of section 16 of this act, the members described in subsection 1 that the Governor is required to appoint to the Board must have the qualifications for licensure as a clinical professional counselor set forth in section 8 of this act at the time of their appointment to the Board.**

Sec. 101. ~~1. This section and sections 1 to ~~20,~~ 15, inclusive, ~~and~~ 16, 17 to 20, inclusive, 22 to ~~100,~~ 99, inclusive, and 100 of this act become effective ~~on July 1, 2007, for the purposes of appointing members to the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors and~~ :~~

**(a) Upon passage and approval for the purposes of adopting regulations to carry out the amendatory provisions of this act ~~[, and on January 1, 2008,]~~ ; and**

**(b) On July 1, 2007, for all other purposes.**

**2. Sections 15.5 and 16.5 of this act become effective on July 1, 2008.**

**3. Section 8 of this act expires by limitation on December 31, 2009.**

**4. Section 99.5 of this act becomes effective on January 1, 2010.**

**5. Section 20 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:**

**(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or**

**(b) Are in arrears in the payment for the support of one or more children,  
➤ are repealed by the Congress of the United States.**

~~6.~~ **6. Section 21 of this act becomes effective 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 procedure 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.**

~~7.~~ **7. Sections 21 and 27 of this act expire by limitation on the date 2 years after 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 Ocegüera moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 424.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered transmitted to the Senate.

Assembly Bill No. 468.

The following Senate amendment was read:

Amendment No. 897.

AN ACT relating to providers of health care; requiring a provider of health care to provide a written disclosure of certain financial interests that he has when referring a patient to or recommending physical therapy to a patient; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires providers of health care who refer patients to or recommend physical therapy to a patient to provide a written disclosure to the patient of any financial interests that the provider of health care has in a facility recommended or to which a patient is referred. **This bill also clarifies that this new requirement does not authorize a referral or recommendation which is otherwise prohibited.**

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

Section 1. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. If a provider of health care refers a patient to or recommends that a patient receive physical therapy at a specific facility in which the provider of health care has a financial interest, the provider of health care shall disclose that interest to the patient in writing in a conspicuous manner.*

*2. The provisions of this section do not authorize a referral or recommendation which is otherwise prohibited, including, without limitation, by the provisions of NRS 439B.425.*

*3. As used in this section:*

*(a) "Financial interest" includes, without limitation, any share in the ownership of or profit from a facility at which physical therapy is provided and any form of compensation from a facility at which physical therapy is provided for a prescription for physical therapy.*

*(b) "Physical therapy" has the meaning ascribed to it in NRS 640.022.*

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 468.



Remarks by Assemblyman Ocegueda.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 518.

The following Senate amendment was read:

Amendment No. 701.

AN ACT relating to telecommunication service; revising provisions governing the regulation of certain incumbent local exchange carriers; revising provisions governing the regulation of competitive suppliers of telecommunication service; allowing for greater competition among various telecommunication providers; repealing provisions governing the plan of alternative regulation and PAR carriers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Public Utilities Commission of Nevada to regulate public utilities that provide telecommunication service to the public. With regard to local telephone service, each service territory has an incumbent local exchange carrier that has an obligation to serve the customers within that particular territory. If no other telecommunication provider is authorized to serve the customers in that particular territory, the incumbent local exchange carrier essentially has a monopoly with regard to local telephone service. (Chapter 704 of NRS)

To foster competition in the local telephone market, existing law allows the Commission to establish a plan of alternative regulation (PAR), whereby an incumbent local exchange carrier may elect to become a PAR carrier under a regulatory scheme which allows flexibility of pricing for certain competitive, discretionary and deregulated services. Under the PAR regulatory scheme, the PAR carrier is allowed to sell such services under less regulated conditions, and other telecommunication providers, known as competitive suppliers, have the opportunity to compete with the PAR carrier in the local telephone market. However, as the incumbent local exchange carrier, the PAR carrier generally retains its obligations as the provider of last resort of basic telephone service and must ensure that such telephone service remains available at affordable rates to the customers within its service territory. (NRS 704.040, 704.68904-704.68984)

This bill repeals the PAR regulatory scheme and replaces it with a regulatory scheme that is intended to promote more competition in the local telephone market. Under this bill, all telecommunication providers, with the exception of certain small-scale providers of last resort, are classified as competitive suppliers. This bill reduces the regulatory authority of the Commission over such competitive suppliers and provides for greater flexibility of pricing with regard to most components of local telephone service, including basic telephone service.

This bill also requires the Commission to adopt regulations establishing the terms, conditions and procedures under which: (1) an incumbent local exchange carrier may be excused from its obligations as the provider of last resort; and (2) those obligations may be reinstated. The regulations must also establish the manner of giving prior notice and the terms of any bond necessary to protect consumers and ensure continuity of basic telephone service when a provider other than an incumbent local exchange carrier intends to terminate or discontinue such service.

Finally, to maintain the availability of telephone service to rural, insular and high-cost areas, this bill requires the Commission to continue to levy and collect a uniform and equitable assessment from all telecommunication providers. The proceeds of the assessment must be used to reimburse providers of last resort so that they are able to provide telephone service to rural, insular and high-cost areas.

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

Section 1. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 30, inclusive, of this act.

Sec. 2. *"Basic network service" means the provision of stand-alone telephone service furnished to a residential customer through the customer's primary residential line as the only service that:*

*1. Is not:*

- (a) Part of a package of services;*
- (b) Sold in a promotion;*
- (c) Purchased pursuant to a contract; or*
- (d) Otherwise offered at a discounted price; and*

*2. Provides to the customer:*

- (a) Voice-grade access to the public switched telephone network with a minimum bandwidth of 300 to 3,000 hertz;*
- (b) Dual tone multifrequency signaling and single party service;*
- (c) Access to:*
  - (1) Operator services;*
  - (2) Telephone relay services;*
  - (3) Local directory assistance;*
  - (4) Interexchange service; and*
  - (5) Emergency 911 service.*
- (d) The first single-line directory listing; and*
- (e) Universal lifeline service for those eligible for such service.*

Sec. 3. *"Business line service" means flat or measured rate service for business lines or business trunk lines.*

Sec. 4. 1. *"Competitive supplier" means a telecommunication provider that is subject to the provisions of sections 18 to 30, inclusive, of this act.*

2. *The term does not include a small-scale provider of last resort unless the provider is authorized by the Commission pursuant to section 21 of this act to be regulated as a competitive supplier.*

Sec. 5. *"Fund to maintain the availability of telephone service" means the fund established by the Commission pursuant to NRS 704.040 to maintain the availability of telephone service.*

Sec. 6. *"Incumbent local exchange carrier" has the meaning ascribed to it in 47 U.S.C. § 251(h)(1), as that section existed on October 1, 1999, and includes a local exchange carrier that is treated as an incumbent local exchange carrier pursuant to that section.*

Sec. 7. *"Interexchange carrier" means any person providing either or both intrastate and interstate telecommunication service for a fee between two or more exchanges.*

Sec. 8. *"Local exchange carrier" has the meaning ascribed to it in 47 U.S.C. § 153(26), as that section existed on December 1, 2006.*

Sec. 9. *"Provider of last resort" means the telecommunication provider designated by the regulations of the Commission to provide basic network service and business line service to any person requesting and eligible to receive telephone service in a particular service territory.*

Sec. 10. *"Small-scale provider of last resort" means an incumbent local exchange carrier that is a provider of last resort of basic network service and business line service to customers through less than 60,000 access lines.*

Sec. 11. *"Telecommunication" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information sent and received, regardless of the facilities, equipment or technology used.*

Sec. 12. *"Telecommunication provider" or "telephone company" means any person required to obtain from the Commission a certificate of public convenience and necessity pursuant to NRS 704.330 to provide telecommunication service.*

Sec. 13. *"Telecommunication service" or "telephone service" means the offering of telecommunication for a fee directly to the public, or such classes of users as to be effectively available directly to the public, regardless of the equipment, facilities or technology used.*

Sec. 14. 1. *The Commission shall by regulation establish a procedure for an incumbent local exchange carrier to provide notice via the Internet of interconnection agreements entered into with another telecommunication provider.*

2. *The procedure established by the Commission pursuant to this section for providing notice via the Internet is the exclusive method for providing such notice, and the Commission may not require another method of notice.*

3. *When an incumbent local exchange carrier provides notice via the Internet pursuant to this section, the notice must include a link to the*

*public area of its website where an electronic copy of the interconnection agreements may be obtained.*

Sec. 15. 1. *The Commission shall adopt regulations that establish:*

*(a) The obligations of incumbent local exchange carriers as providers of last resort giving due consideration to the status of the incumbent local exchange carriers as either competitive suppliers or small-scale providers of last resort.*

*(b) The terms, conditions and procedures under which:*

*(1) An incumbent local exchange carrier may be excused from the obligations of the provider of last resort; and*

*(2) The Commission may request an incumbent local exchange carrier to reinstate the obligations of the provider of last resort.*

*(c) The manner of giving prior written notice of not less than 180 days before another provider of basic network service or business line service may terminate or discontinue such services and the terms of any bond necessary to protect consumers and ensure continuity of such services.*

*2. The regulations adopted by the Commission may not allow an incumbent local exchange carrier to be excused from the obligations of the provider of last resort in situations where the incumbent local exchange carrier, before the effective date of this act, made an agreement to or was specifically ordered to act as the provider of last resort.*

~~Sec. 16.—(Deleted by amendment.)~~

~~Sec. 17.—(Deleted by amendment.)~~

Sec. 18. 1. *Except as otherwise provided in this section, any telecommunication provider operating within this State is a competitive supplier that is subject to the provisions of sections 18 to 30, inclusive, of this act.*

*2. A small-scale provider of last resort is not a competitive supplier that is subject to the provisions of sections 18 to 30, inclusive, of this act, unless the small-scale provider of last resort is authorized by the Commission pursuant to section 21 of this act to be regulated as a competitive supplier.*

Sec. 19. *The provisions of sections 18 to 30, inclusive, of this act do not:*

*1. Apply to the Commission in connection with any actions or decisions required or permitted by the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56-161; or*

*2. Limit or modify:*

*(a) The duties of a competitive supplier that is an incumbent local exchange carrier regarding the provision of network interconnection, unbundled network elements and resold services under the provisions of the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56-161; or*

*(b) The authority of the Commission to act pursuant to NRS 704.6881 and 704.6882.*

Sec. 20. *The Commission may adopt any regulations that are necessary to carry out the provisions of sections 18 to 30, inclusive, of this act.*

Sec. 20.5. 1. *Each competitive supplier that is an incumbent local exchange carrier on the effective date of this act shall:*

*(a) On or before October 1, 2008, prepare and submit to the Commission and the Bureau of Consumer Protection in the Office of the Attorney General a report regarding competition in the local markets for telecommunication service, including, without limitation, competition from available alternative services that serve as technological substitutes for telecommunication service. The report must be based on information that is reasonably available from public sources and must contain data, statistical measures and analyses for assessing:*

*(1) The existing number of customers of the competitive supplier, the forms of telecommunication service provided by the competitive supplier and the prices for such services;*

*(2) The number of competitors in the local markets within the service territory of the competitive supplier for various forms of telecommunication service, including, without limitation, wireline and wireless telecommunication service, and any available alternative services that serve as technological substitutes for telecommunication service, such as broadband services, ~~and video services,~~ and a comparison of the services provided by such competitors and prices for telecommunication service and broadband service;*

*(3) The growth or decline, if any, in customers and primary access lines of the competitive supplier during the preceding 5 years; and*

*(4) The number of persons receiving a reduction in rates for telephone service pursuant to NRS 707.400 to 707.500, inclusive, within the service territory of the competitive supplier, the price of such service, the consumer outreach and informational programs used to expand participation of eligible persons in such service, and the management, coordination and training programs implemented by the competitive supplier to increase awareness and use of lifeline and link-up programs.*

*(b) On or before October 1 of each year thereafter for a period of 4 years, prepare and submit to the Commission and the Bureau of Consumer Protection in the Office of the Attorney General a report that compares and evaluates any changes in the data, prices, statistical measures and analyses set forth in the report submitted by the competitive supplier pursuant to paragraph (a).*

2. *The Commission shall:*

*(a) On or before December 1 of each applicable year, provide to the Legislative Commission a copy of the reports received pursuant to subsection 1; and*

*(b) On or before December 1, 2010, prepare and submit to the Legislative Commission and the Bureau of Consumer Protection in the Office of the Attorney General a report that:*

*(1) Summarizes and evaluates the data, prices, statistical measures and analyses set forth in the reports submitted by competitive suppliers pursuant to subsection 1;*

*(2) Provides an assessment of market conditions and the state of competition for telecommunication service in the various geographical areas of this State; and*

*(3) Includes, without limitation:*

*(I) A discussion of the types of alternative services that serve as technological substitutes for telecommunication service and the availability of such alternative services in the various geographical areas of this State; and*

*(II) An assessment of the alternative services that are available for basic network service and business line service considering inter-modal alternatives, technological developments, market conditions and the availability of comparable alternative services in the various geographical areas of this State.*

Sec. 21. 1. *A small-scale provider of last resort may apply to the Commission to be regulated as a competitive supplier pursuant to sections 18 to 30, inclusive, of this act.*

2. *The Commission may grant the application if it finds that the public interest will be served by allowing the small-scale provider of last resort to be regulated as a competitive supplier.*

3. *If the Commission denies the application, the small-scale provider of last resort:*

*(a) May not be regulated as a competitive supplier but remains subject to regulation pursuant to this chapter as a telecommunication provider; and*

*(b) May not submit another application to be regulated as a competitive supplier sooner than 1 year after the date the most recent application was denied, unless the Commission, upon a showing of good cause or changed circumstances, allows the provider to submit another application sooner.*

Sec. 22. 1. *A competitive supplier is not subject to any review of earnings or monitoring of the rate base or any other regulation by the Commission relating to the net income or rate of return of the competitive supplier, and the Commission shall not consider the rate of return, the rate base or any other earnings of the competitive supplier in carrying out the provisions of sections 18 to 30, inclusive, of this act.*

2. *On or before May 15 of each year, a competitive supplier shall file with the Commission an annual statement of income, a balance sheet, a statement of cash flows for the total operations of the competitive supplier and a statement of intrastate service revenues, each prepared in accordance with generally accepted accounting principles.*

3. A competitive supplier is not required to submit any other form of financial report or comply with any other accounting requirements, including, without limitation, requirements relating to depreciation and affiliate transactions, imposed upon a public utility by this chapter, chapter 703 of NRS or the regulations of the Commission.

Sec. 23. 1. Except as otherwise provided in sections 18 to 30, inclusive, of this act, a competitive supplier:

(a) Is exempt from the provisions of NRS 704.100 and 704.110 and the regulations of the Commission relating thereto and from any other provision of this chapter governing the rates, pricing, terms and conditions of any telecommunication service; and

(b) May exercise complete flexibility in the rates, pricing, terms and conditions of any telecommunication service.

2. The rates, pricing, terms and conditions of intrastate switched or special access service provided by a competitive supplier that is an incumbent local exchange carrier and the applicability of such access service to intrastate interexchange traffic are subject to regulation by the Commission, which must be consistent with federal law, unless the Commission deregulates intrastate switched or special access service pursuant to section 26 of this act.

3. A competitive supplier that is an incumbent local exchange carrier shall use a letter of advice to change any rates, pricing, terms and conditions of intrastate switched or special access service, universal lifeline service or access to emergency 911 service. A letter of advice submitted pursuant to this subsection shall be deemed approved if the Commission does not otherwise act on the letter of advice within 120 days after the date on which the letter is filed with the Commission.

Sec. 24. 1. A competitive supplier is not required to maintain or file any schedule or tariff with the Commission.

2. Each competitive supplier that is an incumbent local exchange carrier:

(a) Shall publish the rates, pricing, terms and conditions of basic network service by:

(1) Posting such rates, pricing, terms and conditions electronically on a publicly available Internet website maintained by the competitive supplier;

(2) Maintaining for inspection by the public a copy of such rates, pricing, terms and conditions at the principal office in Nevada of the competitive supplier; or

(3) Delivering to the customer a copy of the rates, pricing, terms and conditions in writing with the first invoice, billing statement or other written summary of charges for the telecommunication service provided by the competitive supplier to the customer; and

(b) May publish the rates, pricing, terms and conditions of other telecommunication service by:

*(1) Posting such rates, pricing, terms and conditions electronically on a publicly available Internet website maintained by the competitive supplier;*

*(2) Maintaining for inspection by the public a copy of such rates, pricing, terms and conditions at the principal office in Nevada of the competitive supplier; or*

*(3) Delivering to the customer a copy of the rates, pricing, terms and conditions in writing with the first invoice, billing statement or other written summary of charges for the telecommunication service provided by the competitive supplier to the customer.*

Sec. 25. 1. *The Commission shall not decrease the rates or pricing of basic network service provided by a competitive supplier, unless the competitive supplier files a general rate application pursuant to paragraph (b) of subsection 2 and the Commission orders a decrease in the rates or pricing of such service in a general rate case proceeding conducted pursuant thereto.*

2. *Except as otherwise provided in this section, a competitive supplier that is an incumbent local exchange carrier shall not:*

*(a) Without the approval of the Commission, discontinue basic network service or change the terms and conditions of basic network service as set forth in the tariffs of the competitive supplier that were in effect on January 1, 2007.*

*(b) Before January 1, 2012, increase the rates or pricing of basic network service as set forth in the tariffs of the competitive supplier that were in effect on January 1, 2007, except that notwithstanding any other provision of this chapter:*

*(1) On or after January 1, 2011, and before January 1, 2012, the competitive supplier may, without the approval of the Commission, increase the rates or pricing of basic network service provided by the competitive supplier but the total of all increases during that period may not result in rates or pricing of basic network service that is more than \$1 above the rates or pricing set forth in the tariffs of the competitive supplier that were in effect on January 1, 2007; and*

*(2) The Commission may allow the competitive supplier to increase the rates or pricing of basic network service above the amounts authorized by this subsection only if the competitive supplier files a general rate application and proves in a general rate case proceeding conducted pursuant to NRS 704.110 and 704.120 that the increase is absolutely necessary to avoid rates or prices that are confiscatory under the Constitution of the United States or the Constitution of this State. In such a general rate case proceeding, the Commission:*

*(I) May allow an increase in the rates or pricing of basic network service provided by the competitive supplier only in an amount that the competitive supplier proves in the general rate case proceeding is absolutely necessary to avoid an unconstitutional result and shall not*



*authorize in the general rate case proceeding any rate, price or other relief for the competitive supplier that is not proven by the competitive supplier to be absolutely necessary to avoid an unconstitutional result; and*

*(II) May order a decrease in the rates or pricing of basic network service provided by the competitive supplier if the Commission determines in the general rate case proceeding that the decrease is necessary to provide customers with just and reasonable rates.*

**3. On or after January 1, 2012:**

*(a) A competitive supplier that is an incumbent local exchange carrier may exercise flexibility in the rates, pricing, terms and conditions of basic network service in the same manner permitted for other telecommunication service pursuant to section 23 of this act; and*

*(b) The Commission shall not:*

*(1) Regulate the rates, pricing, terms and conditions of basic network service provided by such a competitive supplier; or*

*(2) Require such a competitive supplier to maintain any schedule or tariff for basic network service.*

**4. A competitive supplier that is an incumbent local exchange carrier must provide reasonably detailed information concerning the rates, pricing, terms and conditions of basic network service in the manner required by section 24 of this act.**

**Sec. 26. 1. ~~{The Commission may not deregulate}~~ A competitive supplier shall provide access to emergency 911 service ~~{provided by a competitive supplier.}~~ and shall not discontinue such access.**

**2. The Commission may, upon its own motion or the petition of any person, deregulate intrastate switched or special access service provided by a competitive supplier. Unless the Commission deregulates such access service pursuant to this subsection, the rates, pricing, terms and conditions of such access service are subject to tariff regulation by the Commission.**

**3. If the Commission receives a petition pursuant to subsection 2, the Commission shall act upon the petition not later than 120 days after the date the Commission receives the petition.**

**Sec. 27. 1. A competitive supplier that is a provider of last resort may use an alternative technology to satisfy the obligation to provide basic network service or business line service in a service territory.**

**2. Except as otherwise provided in this section, the Commission may not exercise jurisdiction over an alternative technology used by a competitive supplier that is a provider of last resort to satisfy the obligation to provide basic network service or business line service in a service territory, including, without limitation, determining the rates, pricing, terms, conditions or availability of an alternative technology.**

**3. If a competitive supplier that is a provider of last resort uses an alternative technology to satisfy the obligation to provide basic network service or business line service in a service territory, the Commission may investigate whether basic network service or business line service provided**

*through the alternative technology by the competitive supplier is functionally comparable with circuit-switched wireline telephony.*

*4. If, after notice and hearing, the Commission finds any material deficiency in the competitive supplier's use of the alternative technology to satisfy the obligation to provide basic network service or business line service, the Commission may order the competitive supplier to implement corrective action, within a technically reasonable period, to cure the material deficiency in the use of the alternative technology.*

*5. As used in this section, "alternative technology" means any technology, facility or equipment, other than circuit-switched wireline telephony, that has the capability to provide customers with service functionally comparable to basic network service or business line service. The term includes, without limitation, wireless or Internet technology, facilities or equipment.*

*Sec. 28. If a competitive supplier charges a customer a fixed price or amount for a package of services, the competitive supplier, in any bill or statement for the package of services, is permitted to specify only the fixed price or amount for the package of services and is not required to:*

*1. Identify each separate service or component included in the package of services; or*

*2. Specify the unit price or amount charged for each separate service or component included in the package of services.*

*Sec. 29. 1. A competitive supplier that is not a provider of last resort may discontinue any telecommunication service by providing written notice, not less than 10 days before the date of the discontinuation, to any customer of that service and the Commission.*

*2. A competitive supplier that is a provider of last resort may:*

*(a) Discontinue any telecommunication service, except basic network service, by providing written notice, not less than 10 days before the date of the discontinuation, to any customer of that service and the Commission.*

*(b) Apply to the Commission to discontinue basic network service to all or a portion of the service territory of the competitive supplier on terms that are in the public interest.*

*Sec. 30. In exercising flexibility in the rates, pricing, terms and conditions of any telecommunication service, a competitive supplier that is an incumbent local exchange carrier shall not engage in any anticompetitive act or practice or unlawfully discriminate among similarly situated customers.*

*Sec. 31. NRS 704.001 is hereby amended to read as follows:*

*704.001 It is hereby declared to be the purpose and policy of the Legislature in enacting this chapter:*

*1. To confer upon the Commission the power, and to make it the duty of the Commission, to regulate public utilities to the extent of its jurisdiction;*

*2. To provide for fair and impartial regulation of public utilities;*

3. To provide for the safe, economic, efficient, prudent and reliable operation and service of public utilities; ~~and~~

4. To balance the interests of customers and shareholders of public utilities by providing public utilities with the opportunity to earn a fair return on their investments while providing customers with just and reasonable rates ~~to~~; *and*

5. *With regard to telecommunication service:*

(a) *To regulate competitive suppliers in a manner that allows customers to benefit from full competition regarding rates and services;*

(b) *To provide for basic network service to economically disadvantaged persons who are eligible for a reduction in rates for telephone service pursuant to NRS 707.400 to 707.500, inclusive; and*

(c) *To maintain the availability of telephone service to rural, insular and high-cost areas through:*

(1) *The levy and collection of a uniform and equitable assessment from all persons furnishing intrastate telecommunication service or the functional equivalent of such service through any form of telephony technology; and*

(2) *Payments to telecommunication providers from the fund to maintain the availability of telephone service.*

Sec. 32. NRS 704.005 is hereby amended to read as follows:

704.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 704.007 to 704.030, inclusive, *and sections 2 to 13, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 33. NRS 704.020 is hereby amended to read as follows:

704.020 1. "Public utility" or "utility" includes:

(a) Any person who owns, operates, manages or controls any railroad or part of a railroad as a common carrier in this State, or cars or other equipment used thereon, or bridges, terminals, or sidetracks, or any docks or wharves or storage elevators used in connection therewith, whether or not they are owned by the railroad.

(b) Any ~~telephone company~~ *person, other than a provider of commercial mobile radio service*, that provides a telecommunication service to the public, but only with regard to those operations ~~of the telephone company~~ which consist of providing a telecommunication service to the public.

(c) *Any provider of commercial mobile radio service, but such providers:*

(1) *Must be regulated in a manner consistent with federal law; and*

(2) *Must not be regulated as telecommunication providers for the purposes of this chapter.*

(d) Any radio or broadcasting company or instrumentality that provides a common or contract service.

~~[(d)]~~ (e) Any company that owns cars of any kind or character, used and operated as a part of railroad trains, in or through this State. All duties

required of and penalties imposed upon any railroad or any officer or agent thereof are, insofar as applicable, required of and imposed upon ~~the owner or operator of any telephone company that provides a telecommunication service to the public, any radio or broadcasting company or instrumentality that provides a common or contract service~~ **any public utility** and any **other** company that owns cars of any kind or character, used and operated as a part of railroad trains in or through this State, and their officers and agents, and the Commission may supervise and control all such companies, instrumentalities and persons to the same extent as railroads.

2. "Public utility" or "utility" also includes:

(a) Any person who owns, operates or controls any ditch, flume, tunnel or tunnel and drainage system, charging rates, fares or tolls, directly or indirectly.

(b) Any plant or equipment, or any part of a plant or equipment, within this State for the production, delivery or furnishing for or to other persons, including private or municipal corporations, heat, gas, coal slurry, light, power in any form or by any agency, water for business, manufacturing, agricultural or household use, or sewerage service, whether or not within the limits of municipalities.

(c) Any system for the distribution of liquefied petroleum gas to 10 or more users.

↪ The Commission may supervise, regulate and control all such utilities, subject to the provisions of this chapter and to the exclusion of the jurisdiction, regulation and control of such utilities by any municipality, town or village, unless otherwise provided by law.

3. The provisions of this chapter and the term "public utility" apply to all railroads, express companies, car companies and all associations of persons, whether or not incorporated, that do any business as a common carrier upon or over any line of railroad within this State.

Sec. 34. NRS 704.033 is hereby amended to read as follows:

704.033 1. Except as otherwise provided in subsection 6, the Commission shall levy and collect an annual assessment from all public utilities, providers of discretionary natural gas service and alternative sellers subject to the jurisdiction of the Commission.

2. Except as otherwise provided in subsections 3 and 4, the annual assessment must be:

(a) For the use of the Commission, not more than 3.50 mills; and

(b) For the use of the Consumer's Advocate, not more than 0.75 mills,

↪ on each dollar of gross operating revenue derived from the intrastate operations of such utilities, providers of discretionary natural gas service and alternative sellers in the State of Nevada. The total annual assessment must be not more than 4.25 mills.

3. The levy for the use of the Consumer's Advocate must not be assessed against railroads.

4. The minimum assessment in any 1 year must be \$100.

5. The gross operating revenue of the utilities must be determined for the preceding calendar year. In the case of:

(a) ~~{Telephone utilities,}~~ **Telecommunication providers**, except as provided in paragraph (c), the revenue shall be deemed to be all intrastate revenues.

(b) Railroads, the revenue shall be deemed to be the revenue received only from freight and passenger intrastate movements.

(c) All public utilities, providers of discretionary natural gas service and alternative sellers, the revenue does not include the proceeds of any commodity, energy or service furnished to another public utility, provider of discretionary natural gas service or alternative seller for resale.

6. Providers of commercial mobile radio service are not subject to the annual assessment and, in lieu thereof, shall pay to the Commission an annual licensing fee of \$200.

Sec. 35. NRS 704.040 is hereby amended to read as follows:

704.040 1. Every public utility shall furnish reasonably adequate service and facilities . ~~{, and}~~ **Subject to the provisions of subsection 3**, the charges made for any service rendered or to be rendered, or for any service in connection therewith or incidental thereto, must be just and reasonable.

2. Every unjust and unreasonable charge for service of a public utility is unlawful.

~~{3.—The Commission may exempt, to the extent it deems reasonable, services related to telecommunication or public utilities which provide telecommunication services from any or all of the provisions of this chapter, upon a determination after hearing that the services are competitive or discretionary and that regulation thereof is unnecessary. For the purposes of this subsection, basic local exchange service and access services provided to interexchange carriers are not discretionary.~~

~~4.—The Commission shall adopt regulations necessary to establish a plan of alternative regulation for a public utility that provides telecommunication services. The plan of alternative regulation may include, but is not limited to, provisions that:~~

~~(a) Allow adjustment of the rates charged by a public utility that provides telecommunication services during the period in which the utility elects the plan of alternative regulation.~~

~~(b) Provide for flexibility of pricing for discretionary services and services that are competitive.~~

~~(c) Specify the provisions of this chapter, NRS 426.295 and chapter 707 of NRS that do not apply to a public utility that elects to be regulated under the plan of alternative regulation.~~

~~(d) Except as otherwise provided in this paragraph and NRS 704.68952, if the public utility is an incumbent local exchange carrier, allow the incumbent local exchange carrier to select the duration of the period in which the incumbent local exchange carrier is to be regulated under the plan of alternative regulation. The incumbent local exchange carrier may not select a~~

period that is less than 3 years or more than 5 years. The provisions of this paragraph do not apply to a plan of alternative regulation of an incumbent local exchange carrier regulated under a plan of alternative regulation that was approved by the Commission before June 11, 2003.

~~5. A public utility that elects to be regulated under a plan of alternative regulation established pursuant to subsection 4 is not subject to the remaining~~

**3. Except as otherwise provided in sections 18 to 30, inclusive, of this act:**

**(a) A competitive supplier is exempt from any provision of this chapter governing the rates, prices, terms and conditions of any telecommunication service.**

**(b) A small-scale provider of last resort is subject to the** provisions of this chapter, NRS 426.295 ~~for~~ **and** chapter 707 of NRS . ~~to the extent specified pursuant to paragraph (c) of subsection 4.~~

~~6.]~~ **4. All telecommunication providers** ~~[of telecommunication services]~~ which offer the same or similar service must be subject to fair and impartial regulation, to promote adequate, economical and efficient service.

~~[7.—The Commission may]~~

**5. To maintain the availability of telephone service in accordance with the regulations adopted pursuant to NRS 704.6873, the Commission shall provide for the levy and collection of ~~an~~ a uniform and equitable assessment, in an amount determined by the Commission, from ~~a public utility that provides telecommunication services in order to maintain the availability of telephone service.] all persons furnishing intrastate telecommunication service or the functional equivalent of such service through any form of telephony technology, unless the levy and collection of the assessment with regard to a particular form of technology is prohibited by federal law.~~ Assessments levied **and collected** pursuant to this subsection must be maintained in a separate fund established by the Commission. The Commission shall contract with an independent administrator to administer the fund pursuant to open competitive bidding procedures established by the Commission. The independent administrator shall collect the assessments levied and distribute them from the fund pursuant to a plan which has been approved by the Commission. Money in the fund must be used for the sole purpose of maintaining the availability of telephone service.**

~~[8.—As used in this section:~~

~~(a) "Incumbent local exchange carrier" has the meaning ascribed to it in NRS 704.68932.~~

~~(b) "Interexchange carrier" means any person providing intrastate telecommunications service for a fee between two or more exchanges.]~~

Sec. 36. NRS 704.070 is hereby amended to read as follows:

704.070 ~~[Unless exempt under the provisions of]~~ **Except as otherwise provided in** NRS 704.075, 704.095 or 704.097 ~~[-]~~ **and sections 18 to 30, inclusive, of this act:**

1. Each public utility shall file with the Commission, within a time to be fixed by the Commission, a copy of all schedules that are currently in force for the public utility. Such schedules must be open to public inspection.

2. A copy of each schedule that is currently in force for the public utility, or so much of the schedule as the Commission deems necessary for inspection by the public, must be:

(a) Printed in plain type and posted in each office of the public utility where payments are made to the public utility by its customers; and

(b) Open to inspection by the public and in such form and place as to be readily accessible to and conveniently inspected by the public.

Sec. 37. NRS 704.100 is hereby amended to read as follows:

704.100 Except as otherwise provided in NRS 704.075 and ~~{704.68904 to 704.68984,}~~ **sections 18 to 30, inclusive, of this act** or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097 : ~~for pursuant to the regulations adopted by the Commission in accordance with subsection 4 of NRS 704.040;~~

1. A public utility shall not make changes in any schedule, unless the public utility:

(a) Files with the Commission an application to make the proposed changes and the Commission approves the proposed changes pursuant to NRS 704.110; or

(b) Files the proposed changes with the Commission using a letter of advice in accordance with the provisions of subsection 5.

2. A public utility shall adjust its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8 of NRS 704.110 based on changes in the public utility's recorded costs of natural gas purchased for resale.

3. A public utility shall post copies of all proposed schedules and all new or amended schedules in the same offices and in substantially the same form, manner and places as required by NRS 704.070 for the posting of copies of schedules that are currently in force.

4. A public utility may not set forth as justification for a rate increase any items of expense or rate base that previously have been considered and disallowed by the Commission, unless those items are clearly identified in the application and new facts or considerations of policy for each item are advanced in the application to justify a reversal of the prior decision of the Commission.

5. Except as otherwise provided in subsection 6, if the proposed change in any schedule does not change any rate or will result in an increase in annual gross operating revenue, as certified by the public utility, in an amount that does not exceed \$2,500:

(a) The public utility may file the proposed change with the Commission using a letter of advice in lieu of filing an application; and

(b) The Commission shall determine whether it should dispense with a hearing regarding the proposed change.

6. If the applicant is a ~~[public utility furnishing telephone service]~~ **small-scale provider of last resort** and the proposed change in any schedule will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that does not exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less, the Commission shall determine whether it should dispense with a hearing regarding the proposed change.

7. In making the determination pursuant to subsection 5 or 6, the Commission shall first consider all timely written protests, any presentation that the Regulatory Operations Staff of the Commission may desire to present, the application of the public utility and any other matters deemed relevant by the Commission.

Sec. 38. NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 and ~~[704.68904 to 704.68984]~~ **sections 18 to 30**, inclusive, **of this act** or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097 : ~~for pursuant to the regulations adopted by the Commission in accordance with subsection 4 of NRS 704.040;~~

1. If a public utility files with the Commission an application to make changes in any schedule, including, without limitation, changes that will result in a discontinuance, modification or restriction of service, the Commission shall investigate the propriety of the proposed changes to determine whether to approve or disapprove the proposed changes. If an electric utility files such an application and the application is a general rate application or an application to clear its deferred accounts, the Consumer's Advocate shall be deemed a party of record.

2. Except as otherwise provided in ~~[subsections 3 and 13]~~ **subsection 3**, if a public utility files with the Commission an application to make changes in any schedule, the Commission shall issue a written order approving or disapproving, in whole or in part, the proposed changes ~~for~~:

~~(a) For a public utility that is a PAR carrier, not later than 180 days after the date on which the application is filed; and~~

~~(b) For all other public utilities;~~ not later than 210 days after the date on which the application is filed.

3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. Except as otherwise provided in subsection 4, in determining whether to approve or disapprove any increased rates, the Commission shall consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are



measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the date on which the certification required by this subsection is filed with the Commission, or within the period set forth in subsection 2, whichever time is longer, the Commission shall make such order in reference to the increased rates as is required by this chapter. An electric utility shall file a general rate application pursuant to this subsection at least once every 24 months based on the following schedule:

(a) An electric utility that primarily serves less densely populated counties shall file a general rate application on or before October 3, 2005, and at least once every 24 months thereafter.

(b) An electric utility that primarily serves densely populated counties shall file a general rate application on or before November 15, 2006, and at least once every 24 months thereafter.

4. In addition to submitting the statement required pursuant to subsection 3, a public utility which purchases natural gas for resale may submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances. If such a statement is filed, it must include all increases and decreases in revenue and expenses which may occur within 210 days after the date on which its general rate application is filed with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy. If a public utility submits such a statement, the public utility has the burden of proving that the expected changes in circumstances set forth in the statement are reasonably known and are measurable with reasonable accuracy. If the Commission determines that the public utility has met its burden of proof:

(a) The Commission shall consider the statement submitted pursuant to this subsection and evidence relevant to the statement in addition to the statement required pursuant to subsection 3 as evidence in establishing just and reasonable rates for the public utility; and

(b) The public utility is not required to file with the Commission the certification that would otherwise be required pursuant to subsection 3.

5. If a public utility files with the Commission an application to make changes in any schedule and the Commission does not issue a final written order regarding the proposed changes within the time required by this section, the proposed changes shall be deemed to be approved by the Commission.

6. If a public utility files with the Commission a general rate application, the public utility shall not file with the Commission another general rate application until all pending general rate applications filed by that public utility have been decided by the Commission unless, after application and hearing, the Commission determines that a substantial financial emergency would exist if the public utility is not permitted to file another general rate application sooner. The provisions of this subsection do not prohibit the public utility from filing with the Commission, while a general rate application is pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection 7 or an application to clear its deferred accounts pursuant to subsection 9, if the public utility is otherwise authorized by those provisions to file such an application.

7. A public utility may file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale once every 30 days. The provisions of this subsection do not apply to:

(a) An electric utility using deferred accounting pursuant to NRS 704.187; or

(b) A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8.

8. A public utility which purchases natural gas for resale must request approval from the Commission to adjust its rates on a quarterly basis between annual rate adjustment applications based on changes in the public utility's recorded costs of natural gas purchased for resale. If the Commission approves such a request:

(a) The public utility shall file written notice with the Commission before the public utility makes a quarterly rate adjustment between annual rate adjustment applications. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the public utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and

(IV) Any other information required by the Commission.

(c) The public utility shall file an annual rate adjustment application with the Commission. The annual rate adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual rate adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of natural gas included in each quarterly rate adjustment and the annual rate adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the public utility, and the Commission shall order the public utility to adjust its rates if the Commission determines that any recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application were not reasonable or prudent.

9. Except as otherwise provided in subsection 10 and subsection 5 of NRS 704.100, if an electric utility using deferred accounting pursuant to NRS 704.187 files an application to clear its deferred accounts and to change one or more of its rates based upon changes in the costs for purchased fuel or purchased power, the Commission, after a public hearing and by an appropriate order:

(a) Shall allow the electric utility to clear its deferred accounts by refunding any credit balance or recovering any debit balance over a period not to exceed 3 years, as determined by the Commission.

(b) Shall not allow the electric utility to recover any debit balance, or portion thereof, in an amount that would result in a rate of return during the period of recovery that exceeds the rate of return authorized by the Commission in the most recently completed rate proceeding for the electric utility.

10. Before allowing an electric utility to clear its deferred accounts pursuant to subsection 9, the Commission shall determine whether the costs for purchased fuel and purchased power that the electric utility recorded in its deferred accounts are recoverable and whether the revenues that the electric

utility collected from customers in this State for purchased fuel and purchased power are properly recorded and credited in its deferred accounts. The Commission shall not allow the electric utility to recover any costs for purchased fuel and purchased power that were the result of any practice or transaction that was undertaken, managed or performed imprudently by the electric utility.

11. If an electric utility files an application to clear its deferred accounts pursuant to subsection 9 while a general rate application is pending, the electric utility shall:

(a) Submit with its application to clear its deferred accounts information relating to the cost of service and rate design; and

(b) Supplement its general rate application with the same information, if such information was not submitted with the general rate application.

12. A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the Commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing such a facility.

13. ~~{A PAR carrier may, in accordance with this section and NRS 704.100, file with the Commission a request to approve or change any schedule to provide volume or duration discounts to rates for telecommunication service for an offering made to all or any class of business customers. The Commission may conduct a hearing relating to the request, which must occur within 45 days after the date the request is filed with the Commission. The request and schedule shall be deemed approved if the request and schedule are not disapproved by the Commission within 60 days after the date the Commission receives the request.~~

~~14.}~~ As used in this section:

(a) "Electric utility" has the meaning ascribed to it in NRS 704.187.

(b) "Electric utility that primarily serves densely populated counties" has the meaning ascribed to it in NRS 704.187.

(c) "Electric utility that primarily serves less densely populated counties" has the meaning ascribed to it in NRS 704.187.

~~{(d) "PAR carrier" has the meaning ascribed to it in NRS 704.68942.}~~

Sec. 39. NRS 704.120 is hereby amended to read as follows:

704.120 1. If, upon any hearing and after due investigation, the rates, tolls, charges, schedules or joint rates shall be found to be unjust, unreasonable or unjustly discriminatory, or to be preferential, or otherwise in violation of any of the provisions of this chapter, the Commission shall have the power to fix and order substituted therefor such rate or rates, tolls, charges or schedules as shall be just and reasonable.

2. If it shall in like manner be found that any regulation, measurement, practice, act or service complained of is unjust, unreasonable, insufficient, preferential, unjustly discriminatory or otherwise in violation of the provisions of this chapter, or if it be found that the service is inadequate, or

that any reasonable service cannot be obtained, the Commission shall have the power to substitute therefor such other regulations, measurements, practices, service or acts and make such order relating thereto as may be just and reasonable.

3. When complaint is made of more than one rate, charge or practice, the Commission may, in its discretion, order separate hearings upon the several matters complained of and at such times and places as it may prescribe.

4. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

5. The Commission may at any time, upon its own motion, investigate any of the rates, tolls, charges, rules, regulations, practices and service, and, after a full hearing as above provided, by order, make such changes as may be just and reasonable, the same as if a formal complaint had been made.

6. *The provisions of this section do not apply to a competitive supplier, except that a competitive supplier that is an incumbent local exchange carrier is subject to the provisions of this section with regard to:*

(a) *The provision of basic network service until January 1, 2012; and*

(b) *Any general rate application filed by the competitive supplier pursuant to paragraph (b) of subsection 2 of section 25 of this act. If the competitive supplier files such a general rate application, the general rate case proceeding must be conducted by the Commission in accordance with this section and NRS 704.110.*

Sec. 40. NRS 704.175 is hereby amended to read as follows:

704.175 1. Except as provided in subsection 2, any public utility which installs or modifies any electrical supply line in any building or facility which it owns or operates, if the building or facility is open and accessible to the general public, shall perform such installation or modification as if the National Electrical Code adopted by the National Fire Protection Association applied to such work, and any local government which regulates electrical construction shall inspect such work within its jurisdiction for compliance with this section.

2. Communication equipment and related apparatus are exempted from the provisions of subsection 1 only if the equipment and apparatus ~~is~~ **are** owned, installed, operated and maintained by a ~~public utility which provides communication services~~ **telecommunication provider** under the jurisdiction of the Commission.

Sec. 41. NRS 704.210 is hereby amended to read as follows:

704.210 ~~The~~

1. *Except as otherwise provided in subsection 2, the Commission may:*

~~{1-}~~ (a) Adopt necessary and reasonable regulations governing the procedure, administration and enforcement of the provisions of this chapter, subject to the provisions of NRS 416.060.

~~{2-}~~ (b) Prescribe classifications of the service of all public utilities and, except as otherwise provided in NRS 704.075, fix and regulate the rates therefor.

~~{3-}~~ (c) Fix just and reasonable charges for transportation of all intrastate freight and passengers and the rates and tolls for the use of telephone lines within the State.

~~{4-}~~ (d) Adopt just and reasonable regulations for the apportionment of all joint rates and charges between public utilities.

~~{5-}~~ (e) Consider the need for the conservation of energy when acting pursuant to the provisions of ~~{subsections 1, 2 and 3-}~~ **this subsection.**

**2. The provisions of subsection 1 do not apply to a competitive supplier.**

Sec. 42. NRS 704.215 is hereby amended to read as follows:

704.215 ~~{The}~~

**1. Subject to the provisions of this chapter, the** Commission may adopt by reference all or part of any appropriate:

~~{1-}~~ (a) Rule, regulation or rate ~~{related to telecommunications services}~~ **schedule relating to telecommunication service** issued by an agency of the Federal Government or of any state.

~~{2-}~~ (b) Regulation proposed by the National Association of Regulatory Utility Commissioners or code issued by a national or state professional society.

~~{3-}~~

**2.** A copy of each such rule, regulation, rate schedule ~~{related to telecommunications services}~~ or code ~~{so}~~ adopted **by the Commission pursuant to this section** must be included with the regulations filed with the Secretary of State.

Sec. 43. NRS 704.328 is hereby amended to read as follows:

704.328 The provisions of NRS 704.322 to 704.326, inclusive, ~~{shall}~~ **do** not apply to ~~{any}~~:

**1.** A public utility engaged in:

~~{1-}~~ (a) Interstate commerce if 25 percent or more of the operating revenues of such public utility are derived from interstate commerce.

~~{2-}~~ (b) The business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this State if the utility:

~~{(a)}~~ (1) Serves 15 persons or less; and

~~{(b)}~~ (2) Operates in a county whose population is 400,000 or more.

**2. A competitive supplier.**

Sec. 44. (Deleted by amendment.)

Sec. 45. NRS 704.330 is hereby amended to read as follows:

704.330 **1.** ~~{Every public utility}~~ **Except as otherwise provided in this section, any person** owning, controlling, operating or maintaining or having any contemplation of owning, controlling or operating any public utility shall, before beginning such operation or continuing operations or construction of any line, plant or system or any extension of a line, plant or system within this State, obtain from the Commission a certificate that the present or future public convenience or necessity requires or will require such continued operation or commencement of operations or construction.

2. ~~[Nothing in]~~ **The provisions of** this section ~~[requires]~~ **do not require** a public utility to secure such a certificate for any extension within any town or city within which it lawfully **has** commenced operations or for any other extension ~~[as long as]~~ **if** the extension:

(a) Is **undertaken by a small-scale provider of last resort** to serve a telephone toll station or stations to be located not more than 10 miles from existing telephone facilities; ~~for~~

(b) **Is undertaken for any purpose by a competitive supplier; or**

(c) Remains within the boundaries of the service area which have been established by the Commission for its railroad, line, plant or system, and not then served by a public utility of like character.

3. Upon the granting of any certificate of public convenience, the Commission may make such an order and prescribe such terms and conditions for the location of lines, plants or systems to be constructed, extended or affected as may be just and reasonable.

4. When a complaint has been filed with the Commission alleging that any utility is being operated without a certificate of public convenience and necessity as required by this section, or when the Commission has reason to believe that any provision of this section is being violated, the Commission shall investigate such operations and the Commission may, after a hearing, make its order requiring the owner or operator of the utility to cease and desist from any operation in violation of this section. The Commission shall enforce compliance with such an order under the powers vested in the Commission by law.

5. If any public utility in constructing or extending its line, plant or system interferes or is about to interfere with the operation of the line, plant or system of any other public utility already constructed, the Commission, on complaint of the public utility claiming to be injuriously affected, after hearing, may make such an order prohibiting the construction or extension, or prescribing such terms and conditions for the location of the lines, plants or systems affected, as to it may seem just and reasonable.

6. Except as **otherwise** provided in ~~[subsection 7, whenever]~~ **subsections 7 and 8, if** the Commission, after a hearing upon its own motion or upon complaint, finds that there is or will be a duplication of service by public utilities in any area, the Commission shall either issue a certificate of public convenience and necessity assigning specific territories to one or to each of such utilities, or, by certificate of public convenience and necessity, otherwise define the conditions of rendering service and construction, extensions within such territories, and shall order the elimination of such duplication, all upon such terms as are just and reasonable, having due regard to due process of law and to all the rights of the respective parties and to public convenience and necessity.

7. The Commission may allow **and regulate** a duplication of service by ~~[public utilities]~~ **telecommunication providers** in an area ~~if:~~

(a) ~~The service provided is related to telecommunication; and~~

~~(b) If~~ *where the provider of last resort is a small-scale provider of last resort if the Commission finds that the competition should occur and that any duplication of service is reasonable.*

**8. The Commission:**

*(a) Shall allow a duplication of service or facilities by telecommunication providers in an area where the provider of last resort is a competitive supplier; and*

*(b) On or after January 1, 2012, shall not regulate a duplication of service or facilities by telecommunication providers in an area where the provider of last resort is a competitive supplier.*

**9. A competitive supplier that is a provider of last resort:**

*(a) Must provide to the Commission a description of and map depicting the boundaries of the service area in which the Commission has designated the competitive supplier as the provider of last resort; and*

*(b) May change the boundaries of that service area by filing an application with the Commission. The application shall be deemed approved if the Commission does not act on the application within 120 days after the date the application is filed with the Commission.*

Sec. 46. NRS 704.380 is hereby amended to read as follows:

704.380 ~~[No]~~ **1. Except as otherwise provided in subsection 2, any** public utility beginning, prosecuting or completing any new construction in violation of this chapter ~~[shall be]~~ **is not** permitted to levy any tolls or charges for services rendered, and all such tolls and charges ~~[shall be]~~ **are** void.

**2. The provisions of subsection 1 do not apply to a competitive supplier that is operating in accordance with the provisions of this chapter governing telecommunication providers.**

Sec. 47. NRS 704.390 is hereby amended to read as follows:

704.390 **1. ~~If~~ Except as otherwise provided in sections 18 to 30, inclusive, of this act, it is** unlawful for any public utility to discontinue, modify or restrict service to any city, town, municipality, community or territory theretofore serviced by it, except upon 30 days' notice filed with the Commission, specifying in detail the character and nature of the discontinuance or restriction of the service intended, and upon order of the Commission, made after hearing, permitting such discontinuance, modification or restriction of service.

**2.** Except as otherwise provided in subsection 3, the Commission, in its discretion and after investigation, may dispense with the hearing on the application for discontinuance, modification or restriction of service if, upon the expiration of the time fixed in the notice thereof, no protest against the granting of the application has been filed by or on behalf of any interested person.

**3.** The Commission shall not dispense with the hearing on the application of an electric utility.

Sec. 48. NRS 704.410 is hereby amended to read as follows:



704.410 1. Any public utility subject to the provisions of NRS 704.001 to 704.7595, inclusive, to which a certificate of public convenience and necessity has been issued pursuant to NRS 704.001 to 704.7595, inclusive, may transfer the certificate to any person qualified under NRS 704.001 to 704.7595, inclusive. Such a transfer is void and unenforceable and is not valid for any purpose unless:

(a) A joint application to make the transfer has been made to the Commission by the transferor and the transferee ~~and~~ ***or the transfer is incident to a transaction that is subject to an application under NRS 704.329 approved by the Commission;*** and

(b) The Commission has authorized the substitution of the transferee for the transferor. If the transferor is an electric utility, the Commission shall not authorize the transfer unless the transfer complies with the provisions of NRS 704.7561 to 704.7595, inclusive.

2. The Commission:

(a) Shall conduct a hearing on a transfer involving an electric utility. The hearing must be noticed and conducted in the same manner as other contested hearings before the Commission.

(b) May direct that a hearing be conducted on a transfer involving any other public utility. If the Commission determines that such a hearing should be held, the hearing must be noticed and conducted in the same manner as other contested hearings before the Commission. The Commission may dispense with such a hearing if, upon the expiration of the time fixed in the notice thereof, no protest to the proposed transfer has been filed by or on behalf of any interested person.

3. In determining whether the transfer of a certificate of public convenience and necessity to an applicant transferee should be authorized, the Commission must take into consideration:

(a) The utility service performed by the transferor and the proposed utility service of the transferee;

(b) Other authorized utility services in the territory for which the transfer is sought;

(c) Whether the transferee is fit, willing and able to perform the services of a public utility and whether the proposed operation will be consistent with the legislative policies set forth in NRS 704.001 to 704.7595, inclusive; and

(d) Whether the transfer will be in the public interest.

4. The Commission may make such amendments, restrictions or modifications in a certificate upon transferring it as the public interest requires.

5. No transfer is valid beyond the life of the certificate transferred.

Sec. 49. NRS 704.440 is hereby amended to read as follows:

704.440 1. ~~The~~ ***Except as otherwise provided in subsection 2, the*** Commission may, in its discretion, investigate and ascertain the value of all property of every public utility actually used and useful for the convenience of the public.

~~{2-}~~ In making such *an* investigation, the Commission may avail itself of all information contained in the assessment rolls of the various counties and the public records and files of all state departments, offices and commissions, and any other information obtainable.

**2. *The provisions of subsection 1 do not apply to a competitive supplier.***

Sec. 50. NRS 704.684 is hereby amended to read as follows:

704.684 1. Except as otherwise provided in ~~{subsection 2 and NRS 704.68984,}~~ **this section**, the Commission shall not regulate any broadband service, including imposing any requirements relating to the terms, conditions, rates or availability of broadband service.

2. The provisions of subsection 1 do not limit or modify the authority of the Commission to:

(a) Consider any revenues, costs and expenses that a ~~{public utility}~~ **small-scale provider of last resort** derives from providing a broadband service, if the Commission is determining the rates of the ~~{public utility}~~ **provider** under a general rate application that is filed pursuant to subsection 3 of NRS 704.110;

(b) Act on a complaint filed pursuant to NRS 703.310, if the complaint relates to a broadband service that is provided by a public utility;

(c) Include any appropriate gross operating revenue that a public utility derives from providing broadband service when the Commission calculates the gross operating revenue of the public utility for the purposes of levying and collecting the annual assessment in accordance with the provisions of NRS 704.033; or

(d) Determine the rates, **pricing**, terms and conditions of intrastate switched or special access services ~~{-}~~ ~~{service}~~ **provided by a telecommunication provider.**

**3. *The provisions of subsection 1 do not:***

(a) ***Apply to the Commission in connection with any actions or decisions required or permitted by the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56-161; or***

(b) ***Limit or modify:***

(1) ***The duties of a telecommunication provider regarding the provision of network interconnection, unbundled network elements and resold services under the provisions of the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56-161; or***

(2) ***The authority of the Commission to act pursuant to NRS 704.6881 and 704.6882.***

**4. As used in this section ~~{-~~**

(a) ~~"Affiliate of an incumbent local exchange carrier" has the meaning ascribed to it in NRS 704.6891.~~

~~(b) "Broadband",~~ **"broadband service"** means any two-way service that transmits information at a rate that is generally not less than 200 kilobits per second in at least one direction.

~~[(c) "Incumbent local exchange carrier" has the meaning ascribed to it in NRS 704.68932.]~~

Sec. 51. NRS 704.6873 is hereby amended to read as follows:

704.6873 1. The Commission shall adopt regulations that require each ~~[utility which provides telecommunication services]~~ **telecommunication provider furnishing service** to:

- (a) An elementary or secondary public school; or
- (b) A public library,

→ to establish discounts in the rates for the telecommunication services that the ~~[utility provides]~~ **provider furnishes** to that school or library. The amount of the discount must be determined by the Commission in a manner that is consistent with the provisions of 47 U.S.C. § 254.

2. The Commission shall adopt regulations that require each ~~[utility which provides telecommunication services]~~ **telecommunication provider furnishing service** to:

- (a) Public or private nonprofit providers of health care which serve persons in rural areas; or
- (b) Persons with low income and persons in rural, insular and high-cost areas,

→ to ensure that such providers of health care and persons have access to telecommunication services that are reasonably comparable to those services available in urban areas and that the rates for such services charged by the ~~[utility]~~ **telecommunication provider** are reasonably comparable to those charged in the urban areas, to the extent required by the provisions of 47 U.S.C. § 254.

3. The Commission shall adopt regulations which set forth the requirements for eligibility for ~~[persons]~~ :

(a) **Persons** with low income ~~[and definitions for]~~ **to receive a reduction in rates for telephone service pursuant to NRS 707.400 to 707.500, inclusive. The regulations adopted pursuant to this paragraph must provide that if a person is a customer of:**

(1) **A competitive supplier that is an incumbent local exchange carrier, the person is eligible to receive a reduction in rates if the person's household has a total household gross income not exceeding 175 percent of the federally established poverty level for a household with the same number of persons; and**

(2) **Any other competitive supplier or a small-scale provider of last resort, the person is eligible to receive a reduction in rates if the person's household has a total household gross income not exceeding 150 percent of the federally established poverty level for a household with the same number of persons.**

(b) **Small-scale providers of last resort to apply to receive payments from the fund to maintain the availability of telephone service with regard to rural, insular and high-cost areas.**

(c) *Competitive suppliers that are providers of last resort to apply to receive payments from the fund to maintain the availability of telephone service with regard to rural, insular and high-cost areas.*

4. Any regulations adopted pursuant to this section *and NRS 704.040 regarding the availability of telephone service* must ~~be~~ :

(a) *Be consistent with the applicable provisions of 47 U.S.C. § 254* ~~+~~;

(b) *Define rural, insular and high-cost areas;*

(c) *Establish nondiscriminatory eligibility requirements for all small-scale providers of last resort that apply to receive payments from the fund to maintain the availability of telephone service with regard to rural, insular and high-cost areas; and*

(d) *Allow competitive suppliers which are providers of last resort and which meet the eligibility requirements established by the Commission to apply to receive payments from the fund to maintain the availability of telephone service with regard to rural, insular and high-cost areas.*

Sec. 52. NRS 704.6875 is hereby amended to read as follows:

704.6875 1. Except as otherwise provided in subsection 2, each ~~{public utility which provides telecommunication services}~~ **telecommunication provider** shall provide timely written notice to a customer of the duration of each call that is billed to the customer, reported in minutes, seconds or any fraction thereof, if the charges for the telecommunication services are calculated, in whole or in part, on the basis of the duration of the call.

2. The provisions of this section do not apply to measured rate service . ~~{that is regulated by the Commission.}~~

Sec. 53. NRS 704.6881 is hereby amended to read as follows:

704.6881 The Commission shall, by regulation:

1. Establish standards of performance and reporting regarding the provision of interconnection, unbundled network elements and resold services, which encourage competition and discourage discriminatory conduct in the provision of local telecommunication services; and

2. Notwithstanding the provisions of NRS 703.320 to the contrary, establish penalties and expedited procedures for imposing penalties upon a **telecommunication** provider ~~{of telecommunication services}~~ for actions that are inconsistent with the standards established by the Commission pursuant to subsection 1. Such penalties may include financial payment to the complaining **telecommunication** provider ~~{of telecommunication services}~~ for a violation of the standards established by the Commission pursuant to subsection 1, provided that any penalty paid must be deducted, with interest, from any other award under any other judicial or administrative procedure for the same conduct in the same reporting period. Any penalty imposed pursuant to this subsection is in lieu of the civil penalties set forth in NRS 703.380 and must be:

(a) Imposed for violating a standard or standards established by regulations of the Commission pursuant to subsection 1;

(b) Determined by the Commission to further the goal of encouraging competition or discouraging discriminatory conduct; and

(c) In an amount reasonable to encourage competition or discourage discriminatory conduct.

Sec. 54. NRS 704.6882 is hereby amended to read as follows:

704.6882 Notwithstanding the provisions of NRS 703.310 and 703.320, the Commission shall establish by regulation expedited procedures for complaints filed by a **telecommunication** provider ~~for telecommunication services~~ against another **telecommunication** provider ~~for telecommunication services~~ for any dispute arising under this chapter, **including, without limitation, a dispute arising under the standards set forth in section 30 of this act**, or arising under chapter 703 of NRS. ~~including~~ **The regulations may include, without limitation**, specific procedures for interim relief that may include a preliminary decision by a single Commissioner except as to the imposition of monetary penalties.

Sec. 55. NRS 704.6884 is hereby amended to read as follows:

704.6884 The provisions of NRS 704.6881 to 704.6884, inclusive, must not be construed to exempt **telecommunication** providers ~~for telecommunication services~~ from any other applicable statute of this State or the United States relating to consumer and antitrust protections. The exemption provided in paragraph (c) of subsection 3 of NRS 598A.040 does not apply to conduct of, or actions taken by, a **telecommunication** provider ~~for telecommunication services~~ in violation of the standards established pursuant to subsection 1 of NRS 704.6881.

Sec. 56. Chapter 707 of NRS is hereby amended by adding thereto the provisions set forth as sections 57 to 60, inclusive, of this act.

Sec. 57. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 58, 59 and 60 of this act have the meanings ascribed to them in those sections.*

Sec. 58. *"Basic network service" has the meaning ascribed to it in section 2 of this act.*

Sec. 59. *"Telecommunication provider" or "telephone company" has the meaning ascribed to it in section 12 of this act.*

Sec. 60. *"Telecommunication service" or "telephone service" has the meaning ascribed to it in section 13 of this act.*

Sec. 61. NRS 707.440 is hereby amended to read as follows:

707.440 "Eligible provider" means a **telecommunication** provider ~~for telecommunication services~~ that has been designated as an eligible telecommunications carrier by the Commission to receive universal service support pursuant to 47 U.S.C. § 214, as that section existed on January 1, 1999.

Sec. 62. NRS 707.490 is hereby amended to read as follows:

707.490 1. The reduction in the telephone rates provided by lifeline or link up services must be based on the methods for determining reductions which are adopted by the Commission by regulation. The Commission may

provide different methods for determining reductions to allow for differences between eligible providers. The methods may include, without limitation:

(a) Basing the reduction on the tariff filed by the eligible provider with the Commission; or

(b) Establishing a formula pursuant to which the amount of the reduction may be determined.

2. The reduction in such telephone rates applies only to:

(a) ~~Residential flat rate basic local exchange service;~~

~~(b) Residential local exchange access service;~~

~~(c) Residential local calling area service; and~~

~~(d)}~~ **Basic network service; and**

(b) Residential service connection charges ~~{ }~~ **for such basic network service.**

3. ~~{The reduced rate for residential local exchange access service, when combined with the reduced rate for residential local calling area service, must not exceed the comparable reduced rate for residential flat rate basic local exchange service.}~~

~~4.}~~ If the amount of the reduction in rates provided by an eligible provider to an eligible customer for lifeline services is greater than the amount which the eligible provider receives as universal service support pursuant to 47 U.S.C. § 254, the eligible provider is entitled to reimbursement from the fund **to maintain the availability of telephone service** established by the Commission pursuant to NRS 704.040 for the difference between the amount of the reduction and the amount received as universal service support pursuant to 47 U.S.C. § 254.

Sec. 63. NRS 709.050 is hereby amended to read as follows:

709.050 1. The board of county commissioners may grant to any person, company, corporation or association the franchise, right and privilege to construct, install, operate and maintain street railways, electric light, heat and power lines, gas and water mains, telephone and telegraph lines, and all necessary or proper appliances used in connection therewith or appurtenant thereto, in the streets, alleys, avenues and other places in any unincorporated town in the county, and along the public roads and highways of the county, when the applicant complies with the terms and provisions of NRS 709.050 to 709.170, inclusive.

2. The board of county commissioners shall not:

(a) Impose any terms or conditions on a franchise granted pursuant to subsection 1 for the provision of ~~{telecommunications}~~ **telecommunication** service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~{telecommunications}~~ **telecommunication** service or interactive computer service to obtain a

franchise if it provides ~~{telecommunications}~~ **telecommunication** service over the telephone or telegraph lines owned by another company.

3. As used in NRS 709.050 to 709.170, inclusive:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~{230(e)(2),}~~ **230(f)(2)**, as that section existed on ~~{July 16, 1997.}~~ **January 1, 2007.**

(b) "Street railway" means:

(1) A system of public transportation operating over fixed rails on the surface of the ground; or

(2) An overhead or underground system, other than a monorail, used for public transportation.

↪ The term does not include a super speed ground transportation system as defined in NRS 705.4292.

(c) ~~{“Telecommunications”}~~ **“Telecommunication** service” has the meaning ascribed to it in ~~{47 U.S.C. § 153(46), as that section existed on July 16, 1997.}~~ **section 13 of this act.**

4. As used in this section, “monorail” has the meaning ascribed to it in NRS 705.650.

Sec. 64. NRS 709.130 is hereby amended to read as follows:

709.130 1. Every person, company, corporation or association receiving a franchise pursuant to the provisions of NRS 709.050 to 709.170, inclusive, shall:

(a) Provide a plant with all necessary appurtenances of approved construction for the full performance of his franchise duties, rights and obligations, and for the needs, comfort and convenience of the inhabitants of the various unincorporated towns and cities, county or place to which his franchise relates.

(b) Keep the plants and appurtenances, including all tracks, cars, poles, wires, pipes, mains and other attachments, in good repair, so as not to interfere with the passage of persons or vehicles, or the safety of persons or property.

2. Except as otherwise provided in this subsection, the board of county commissioners may when granting such franchise, fix and direct the location of all tracks, poles, wires, mains, pipes and other appurtenances upon the public streets, alleys, avenues and highways as best to serve the convenience of the public. The board may change the location of any appurtenances and permit, upon proper showing, all necessary extensions thereof when the interest or convenience of the public requires. The board shall not require a company that provides ~~{telecommunications}~~ **telecommunication** service or interactive computer service to place its facilities in ducts or conduits or on poles owned or leased by the county.

3. All poles, except poles from which trolley wires are suspended for streetcar lines, from which wires are suspended for electric railroads, power, light or heating purposes within the boundaries of unincorporated towns and

over public highways must not be less than 30 feet in height, and the wires strung thereon must not be less than 25 feet above the ground.

4. Every person, company, association or corporation operating a telephone, telegraph or electric light, heat or power line, or any electric railway line, shall, with due diligence, provide itself, at its own expense, a competent electrician to cut, repair and replace wires in all cases where cutting or repairing or replacing is made necessary by the removal of buildings or other property through the public streets or highways.

5. No person, company, corporation or association may receive an exclusive franchise nor may any board of county commissioners grant a franchise in such manner or under such terms or conditions as to hinder or obstruct the granting of franchises to other grantees, or in such manner as to obstruct or impede reasonable competition in any business or public service to which NRS 709.050 to 709.170, inclusive, apply.

Sec. 65. NRS 710.140 is hereby amended to read as follows:

710.140 1. The control, management and conduct of any telephone line or system purchased, acquired or constructed by any county must be exercised by the board of county commissioners of such county.

2. The board of county commissioners has the right to employ such persons as may be necessary to carry on the business of the county telephone line or system.

3. The board of county commissioners shall comply with chapter 332 of NRS in letting contracts for the use and benefit of the county telephone line or system.

4. If the Public Utilities Commission of Nevada has provided for the levy and collection of an assessment pursuant to ~~subsection 7 of~~ NRS 704.040 for ~~the~~ **the** fund to maintain the availability of telephone service, the county telephone line or system is subject to the levy and collection of the assessment and is entitled to receive money from the fund under the same terms and conditions as a ~~public utility that is subject to subsection 7 of NRS 704.040.~~ **telecommunication provider regulated pursuant to chapter 704 of NRS.**

5. In carrying on the business of the county telephone line or system, the board of county commissioners may create a separate corporation to provide communication services that are not within the scope of activities regulated pursuant to chapter 704 of NRS. The control and management of the separate corporation must be exercised by the board of county commissioners, and the separate corporation is subject to all applicable provisions of NRS 710.010 to 710.159, inclusive, to the same extent as the county telephone line or system.

6. If, after October 1, 2006, the county telephone line or system provides, outside the territorial boundaries of the county, any communication services that are not within the scope of activities regulated pursuant to chapter 704 of NRS, the county telephone line or system:

(a) With regard to the facilities and property it maintains outside the territorial boundaries of the county, shall comply with the same federal, state



and local requirements that would apply to a privately held company providing the same communication services; and

(b) With regard to the provision of such services outside the territorial boundaries of the county:

(1) Shall comply with any regulations and rules of the Public Utilities Commission of Nevada that would apply to a privately held company providing the same communication services;

(2) Shall not use any money from the county general fund for the provision of such services; and

(3) Shall not engage in any transaction with an affiliated entity at prices and terms that are lower than or more favorable than the prices and terms that the county telephone line or system or the affiliated entity would offer to or charge an unaffiliated third party for such a transaction.

7. Nothing in this section requires a county telephone line or system to offer any services to or engage in any transaction with an affiliated entity or an unaffiliated third party.

8. Except as otherwise provided in subsections 4 and 6, nothing in this section vests jurisdiction over a county telephone line or system in the Public Utilities Commission of Nevada.

9. It is expressly provided that no general or other statute shall limit or restrict the conduct and carrying on of the business of a county telephone line or system by the board of county commissioners except as specifically set forth in this section and NRS 710.145.

10. As used in this section, "affiliated entity" means any entity that is owned, operated or controlled by the same county that owns, operates or controls the county telephone line or system.

Sec. 66. NRS 710.145 is hereby amended to read as follows:

710.145 1. Notwithstanding the provisions of any other statute, a county telephone line or system may extend its communication services outside the territorial boundaries of the county if:

(a) The services are not within the scope of activities regulated pursuant to chapter 704 of NRS and the county telephone line or system complies with the provisions of subsection 6 of NRS 710.140;

(b) The ~~{Public Utilities Commission of Nevada has, pursuant to subsection 3 of NRS 704.040, determined that the}~~ services are ***extended into an area served by one or more*** competitive ~~{for discretionary and that regulation thereof is unnecessary;}~~ ***suppliers regulated pursuant to sections 18 to 30, inclusive, of this act;*** or

(c) The Public Utilities Commission of Nevada has, in an action commenced under NRS 704.330 and after 20 days' notice to all telephone utilities providing service in the county into which the extension is to be made, determined that no other telephone service can reasonably serve the area into which the extension is to be made and approves the extension of the system. No such extension may be permitted for a distance of more than 10 miles.

2. If, after October 1, 2005, a county telephone line or system provides any communication services pursuant to paragraph (b) or (c) of subsection 1 outside the territorial boundaries of the county, the county telephone line or system shall:

(a) With regard to the facilities and property it maintains outside the territorial boundaries of the county, comply with the same federal, state and local requirements that would apply to a privately held company providing the same communication services; and

(b) With regard to the provision of such services outside the territorial boundaries of the county, comply with any regulations and rules of the Public Utilities Commission of Nevada that would apply to a privately held company providing the same communication services.

3. If a county telephone line or system and an affiliated entity engage in any transaction to provide communication services outside the territorial boundaries of the county, the Public Utilities Commission of Nevada has jurisdiction over such a transaction to the extent necessary to enforce this section and NRS 710.140.

4. Nothing in this section requires a county telephone line or system to offer any services to or engage in any transaction with an affiliated entity or an unaffiliated third party.

5. Except as otherwise provided in subsections 1, 2 and 3, nothing in this section vests jurisdiction over a county telephone line or system in the Public Utilities Commission of Nevada.

6. As used in this section, "affiliated entity" has the meaning ascribed to it in NRS 710.140.

Sec. 67. NRS 710.147 is hereby amended to read as follows:

710.147 1. The governing body of a county whose population is 50,000 or more:

(a) Shall not sell ~~[telecommunications]~~ **telecommunication** service to the general public.

(b) May purchase or construct facilities for providing ~~[telecommunications]~~ **telecommunication** that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

2. Any information relating to the study conducted pursuant to subsection 1 must be maintained by the county clerk and made available for public inspection during the business hours of the office of the county clerk.

3. Notwithstanding the provisions of paragraph (a) of subsection 1, an airport may sell ~~[telecommunications]~~ **telecommunication** service to the general public.

4. As used in this section:

(a) [~~“Telecommunications”~~] **“Telecommunication”** has the meaning ascribed to it in [~~47 U.S.C. § 153(43), as that section existed on July 16, 1997.~~

(b) [~~“Telecommunications”~~] **section 11 of this act.**

(b) **“Telecommunication service”** has the meaning ascribed to it in [~~47 U.S.C. § 153(46), as that section existed on July 16, 1997.~~] **section 13 of this act.**

Sec. 68. NRS 711.190 is hereby amended to read as follows:

711.190 1. Except as otherwise provided in NRS 318.1194:

(a) A city may grant a franchise to a community antenna television company for the construction, maintenance and operation of a community antenna television system which requires the use of city property or that portion of the city dedicated to public use for the maintenance of cables or wires underground, on the surface or on poles for the transmission of a television picture.

(b) A county may grant a franchise to a community antenna television company for the construction, maintenance and operation of a community antenna television system which requires the use of the property of the county or any town in the county or that portion of the county or town dedicated to public use for the maintenance of cables or wires underground, on the surface or on poles for the transmission of a television picture.

2. If a local government grants a franchise to two or more community antenna television companies to construct, maintain or operate a community antenna television system in the same area, the local government shall impose the same terms and conditions on each franchise and shall enforce those terms and conditions in a nondiscriminatory manner.

3. A community antenna television company that is granted a franchise pursuant to this chapter may provide [~~telecommunications~~] **telecommunication** service or interactive computer service without obtaining a separate franchise from the local government.

4. A local government that grants a franchise pursuant to this chapter shall not require the community antenna television company to place its facilities in ducts or conduits or on poles owned or leased by the local government.

5. If a county whose population is 400,000 or more, or an incorporated city located in whole or in part within such a county, grants a franchise pursuant to this chapter, the term of the franchise must be at least 10 years. If a franchisee notifies such a county or city on or before the end of the eighth year of a franchise that it wishes to extend the franchise, the county or city shall, on or before the end of the ninth year of the franchise, grant an extension of 5 years on the same terms and conditions, unless the franchisee has not substantially complied with the terms and conditions of the franchise agreement.

6. As used in this section:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~{230(e)(2),}~~ **230(f)(2)**, as that section existed on ~~{July 16, 1997.~~

~~(b) "Telecommunications" January 1, 2007.~~

(b) "**Telecommunication** service" has the meaning ascribed to it in ~~{47 U.S.C. § 153(46), as that section existed on July 16, 1997.}~~ **section 13 of this act.**

Sec. 69. NRS 268.086 is hereby amended to read as follows:

268.086 1. The governing body of an incorporated city whose population is 25,000 or more:

(a) Shall not sell ~~{telecommunications}~~ **telecommunication** service to the general public.

(b) May purchase or construct facilities for providing ~~{telecommunications}~~ **telecommunication** that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

2. Any information relating to the study conducted pursuant to subsection 1 must be maintained by the city clerk and made available for public inspection during the business hours of the office of the city clerk.

3. Notwithstanding the provisions of paragraph (a) of subsection 1, an airport may sell ~~{telecommunications}~~ **telecommunication** service to the general public.

4. As used in this section:

(a) ~~{"Telecommunications"}~~ **"Telecommunication"** has the meaning ascribed to it in ~~{47 U.S.C. § 153(43), as that section existed on July 16, 1997.~~

~~(b) "Telecommunications" section 11 of this act.~~

(b) "**Telecommunication** service" has the meaning ascribed to it in ~~{47 U.S.C. § 153(46), as that section existed on July 16, 1997.}~~ **section 13 of this act.**

Sec. 70. NRS 268.088 is hereby amended to read as follows:

268.088 The governing body of an incorporated city shall not:

1. Impose any terms or conditions on a franchise for the provision of ~~{telecommunications}~~ **telecommunication** service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

2. Require a company that provides ~~{telecommunications}~~ **telecommunication** service or interactive computer service to obtain a franchise if it provides ~~{telecommunications}~~ **telecommunication** service over the telephone or telegraph lines owned by another company.

3. Require a person who holds a franchise for the provision of ~~telecommunications~~ **telecommunication** service to place its facilities in ducts or conduits or on poles owned or leased by the city.

4. As used in this section:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~{230(e)(2)} 230(f)(2)~~, as that section existed on ~~July 16, 1997.~~

~~(b) "Telecommunications" January 1, 2007.~~

(b) "**Telecommunication** service" has the meaning ascribed to it in ~~{47 U.S.C. § 153(46), as that section existed on July 16, 1997.}~~ **section 13 of this act.**

Sec. 71. NRS 360.820 is hereby amended to read as follows:

360.820 ~~{ "Telecommunications" }~~ "**Telecommunication** service" has the meaning ascribed to it in ~~{47 U.S.C. § 153(46), as that section existed on July 1, 2003.}~~ **section 13 of this act.**

Sec. 72. NRS 360.825 is hereby amended to read as follows:

360.825 1. Except as otherwise provided in this section, if on or after July 1, 2003, a local government acquires from another entity a public utility that provides electric service, natural gas service, ~~telecommunications~~ **telecommunication** service or community antenna television service:

(a) The local government shall make payments in lieu of and equal to all state and local taxes and franchise fees from which the local government is exempt but for which the public utility would be liable if the public utility was not owned by a governmental entity; and

(b) The Nevada Tax Commission shall, solely for the purpose set forth in this paragraph, annually determine and apportion the assessed valuation of the property of the public utility. For the purpose of calculating any allocation or apportionment of money for distribution among local governments pursuant to a formula required by state law which is based partially or entirely on the assessed valuation of taxable property:

(1) The property of the public utility shall be deemed to constitute taxable property to the same extent as if the public utility was not owned by a governmental entity; and

(2) To the extent that the property of the public utility is deemed to constitute taxable property pursuant to this paragraph:

(I) The assessed valuation of that property must be included in that calculation as determined and apportioned by the Nevada Tax Commission pursuant to this paragraph; and

(II) The payments required by paragraph (a) in lieu of any taxes that would otherwise be required on the basis of the assessed valuation of that property shall be deemed to constitute payments of those taxes.

2. The payments in lieu of taxes and franchise fees required by subsection 1 are due at the same time and must be collected, accounted for and distributed in the same manner as those taxes and franchise fees would be due, collected, accounted for and distributed if the public utility was not owned by a governmental entity, except that no lien attaches upon any

property or money of the local government by virtue of any failure to make all or any part of those payments. The local government may contest the validity and amount of any payment in lieu of a tax or franchise fee to the same extent as if that payment was a payment of the tax or franchise fee itself. The payments in lieu of taxes and franchise fees must be reduced if and to the extent that such a contest is successful.

3. The provisions of this section do not:

(a) Apply to the acquisition by a local government of a public utility owned by another governmental entity, except a public utility owned by another local government for which any payments in lieu of state or local taxes or franchise fees was required before its acquisition as provided in this section.

(b) Require a local government to make any payments in lieu of taxes or franchise fees to the extent that the making of those payments would cause a deficiency in the money available to the local government to make required payments of principal of, premium, if any, or interest on any bonds or other securities issued to finance the acquisition of that public utility or to make required payments to any funds established under the proceedings under which those bonds or other securities were issued.

(c) Require a county to duplicate any payments in lieu of taxes required pursuant to NRS 244A.755.

Sec. 73. NRS 360.830 is hereby amended to read as follows:

360.830 1. Except as otherwise provided in this section, if on or after July 1, 2003, a local government:

(a) Acquires from another entity a public utility that provides water service or sewer service; or

(b) Expands facilities for the provision of water service, sewer service, electric service, natural gas service, ~~telecommunications~~ **telecommunication** service or community antenna television service, and the expansion results in the local government serving additional retail customers who were, before the expansion, retail customers of a public utility which provided that service,

➡ the local government shall enter into an interlocal agreement with each affected local government to compensate the affected local government each fiscal year, as nearly as practicable, for the amount of any money from state and local taxes and franchise fees and from payments in lieu of those taxes and franchise fees, and for any compensation from a local government pursuant to this section, the affected local government would be entitled to receive but will not receive because of the acquisition of that public utility or expansion of those facilities as provided in this section.

2. An affected local government may waive any or all of the compensation to which it may be entitled pursuant to subsection 1.

3. The provisions of this section do not require a:

(a) Local government to provide any compensation to an affected local government to the extent that the provision of that compensation would cause

a deficiency in the money available to the local government to make required payments of principal of, premium, if any, or interest on any bonds or other securities issued to finance the acquisition of that public utility or expansion of those facilities, or to make required payments to any funds established under the proceedings under which those bonds or other securities were issued.

(b) County to duplicate any compensation an affected local government receives from any payments in lieu of taxes required pursuant to NRS 244A.755.

Sec. 74. NRS 598.9682 is hereby amended to read as follows:

598.9682 "Provider" means:

1. A ~~{person who is in the business of providing a telecommunications service;}~~ **telecommunication provider as defined in section 12 of this act;**

2. An agent, employee, independent contractor or representative of *such* a ~~{person who is in the business of providing a telecommunications service;}~~ **telecommunication provider;** or

3. A person who originates a charge for a ~~{telecommunications}~~ **telecommunication** service and directly or indirectly bills a customer for the charge.

Sec. 75. NRS 598.9684 is hereby amended to read as follows:

598.9684 ~~{“Telecommunications service” means a service that is designed or has the capability to generate, process, store, retrieve, convey, emit, transmit, receive, relay, record or reproduce any data, information, image, program, signal or sound over a communications system or network, including, without limitation, a communications system or network that uses analog, digital, electronic, electromagnetic, magnetic or optical technology.}~~ **“Telecommunication service” has the meaning ascribed to it in section 13 of this act.**

Sec. 76. NRS 598.969 is hereby amended to read as follows:

598.969 A provider shall not:

1. Make a statement or representation regarding the provision of a ~~{telecommunications}~~ **telecommunication** service, including, without limitation, a statement regarding the rates, terms or conditions of a ~~{telecommunications}~~ **telecommunication** service, that:

(a) Is false, misleading or deceptive; or

(b) Fails to include material information which makes the statement or representation false, misleading or deceptive.

2. Misrepresent his identity.

3. Falsely state to a person that the person has subscribed or authorized a subscription to or has received a ~~{telecommunications}~~ **telecommunication** service.

4. Omit, when explaining the terms and conditions of a subscription to a ~~{telecommunications}~~ **telecommunication** service, a material fact concerning the subscription.

5. Fail to provide a customer with timely written notice containing:

(a) A clear and detailed description relating directly to the services for which the customer is being billed and the amount the customer is being charged for each service;

(b) All terms and conditions relating directly to the services provided; and

(c) The name, address and telephone number of the provider.

6. Fail to honor, within a reasonable period, a request of a customer to cancel a ~~{telecommunications}~~ **telecommunication** service pursuant to the terms and conditions for the service.

7. Bill a customer for a ~~{telecommunications}~~ **telecommunication** service after the customer has cancelled the ~~{telecommunications}~~ **telecommunication** service pursuant to the terms and conditions of the service.

8. Bill a customer for services that the provider knows the customer has not authorized, unless the service is required to be provided by law. The failure of a customer to refuse a proposal from a provider does not constitute specific authorization.

9. Change a customer's subscription to a local exchange carrier or an interexchange carrier unless:

(a) The customer has authorized the change within the 30 days immediately preceding the date of the change; and

(b) The provider complies with the provisions of 47 U.S.C. § 258, as amended, and the verification procedures set forth in 47 C.F.R. part 64, subpart K, as amended.

10. Fail to provide to a customer who has authorized the provider to change his subscription to a local exchange carrier or an interexchange carrier a written confirmation of the change within 30 days after the date of the change.

11. Propose or enter into a contract with a person that purports to:

(a) Waive the protection afforded to the person by any provision of this section; or

(b) Authorize the provider or an agent, employee, independent contractor or representative of the provider to violate any provision of this section.

Sec. 77. NRS 598.9691 is hereby amended to read as follows:

598.9691 The Public Utilities Commission of Nevada may adopt regulations governing the disclosures that must be made by a provider to a customer before the customer may be charged for a ~~{telecommunications}~~ **telecommunication** service.

Sec. 78. Section 2.270 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, as last amended by chapter 416, Statutes of Nevada 2001, at page 2096, is hereby amended to read as follows:

Sec. 2.270 Power of Board: Provision of utilities.

1. Except as otherwise provided in subsection 2 and section 2.272, the Board may:



(a) Provide, by contract, franchise or public enterprise, for any utility to be furnished to Carson City or the residents thereof.

(b) Provide for the construction of any facility necessary for the provision of such utilities.

(c) Fix the rate to be paid for any utility provided by public enterprise.

(d) Provide that any public utility be authorized, for any purpose or object whatever, to install, operate or use within the city mechanical water meters, or similar mechanical devices, to measure the quantity of water delivered to water users.

2. The Board:

(a) Shall not sell ~~{telecommunications}~~ **telecommunication** service to the general public.

(b) May purchase or construct facilities for providing ~~{telecommunications}~~ **telecommunication** that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

3. Any information relating to the study conducted pursuant to subsection 2 must be maintained by the Clerk and made available for public inspection during the business hours of the Office of the Clerk.

4. Notwithstanding the provisions of paragraph (a) of subsection 2, an airport may sell ~~{telecommunications}~~ **telecommunication** service to the general public.

5. As used in this section:

(a) ~~{“Telecommunications”}~~ **“Telecommunication”** has the meaning ascribed to it in ~~{47 U.S.C. § 153(43), as that section existed on July 16, 1997.}~~

~~(b) “Telecommunications”~~ **section 11 of this act.**

(b) **“Telecommunication** service” has the meaning ascribed to it in ~~{47 U.S.C. § 153(46), as that section existed on July 16, 1997.}~~ **section 13 of this act.**

Sec. 79. Section 2.272 of the Charter of Carson City, being chapter 565, Statutes of Nevada 1997, at page 2750, is hereby amended to read as follows:

Sec. 2.272 Franchises for the provision of ~~{telecommunications}~~ **telecommunication** service.

1. The Board shall not:

(a) Impose any terms or conditions on a franchise for the provision of ~~{telecommunications}~~ **telecommunication** service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~{telecommunications}~~ **telecommunication** service or interactive computer service to obtain a

franchise if it provides ~~{telecommunications}~~ **telecommunication** service over the telephone or telegraph lines owned by another company.

(c) Require a person who holds a franchise for the provision of ~~{telecommunications}~~ **telecommunication** service or interactive computer service to place its facilities in ducts or conduits or on poles owned or leased by the City.

2. As used in this section:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~{230(e)(2),}~~ **230(f)(2)**, as that section existed on ~~{July 16, 1997.}~~

~~(b) "Telecommunications"~~ **January 1, 2007.**

(b) "**Telecommunication** service" has the meaning ascribed to it in ~~{47 U.S.C. § 153(46), as that section existed on July 16, 1997.}~~ **section 13 of this act.**

Sec. 80. Section 2.280 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 416, Statutes of Nevada 2001, at page 2098, is hereby amended to read as follows:

Sec. 2.280 Powers of City Council: Provision of utilities.

1. Except as otherwise provided in subsection 2 and section 2.285, the City Council may:

(a) Provide, by contract, franchise or public enterprise, for any utility to be furnished to the City for the residents thereof.

(b) Provide for the construction of any facility necessary for the provision of such utilities.

(c) Fix the rate to be paid for any utility provided by public enterprise. Any charges due for services, facilities or commodities furnished by any utility owned by the City is a lien upon the property to which the service is rendered and must be perfected by filing with the County Recorder of Clark County a statement by the City Clerk of the amount due and unpaid and describing the property subject to the lien. Each such lien must:

(1) Be coequal with the latest lien thereon to secure the payment of general taxes.

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

(3) Be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

2. The City Council:

(a) Shall not sell ~~{telecommunications}~~ **telecommunication** service to the general public.

(b) May purchase or construct facilities for providing ~~{telecommunications}~~ **telecommunication** that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

3. Any information relating to the study conducted pursuant to subsection 2 must be maintained by the City Clerk and made available for public inspection during the business hours of the Office of the City Clerk.

4. Notwithstanding the provisions of paragraph (a) of subsection 2, an airport may sell ~~{telecommunications}~~ **telecommunication** service to the general public.

5. As used in this section:

(a) ~~{“Telecommunications”}~~ **“Telecommunication”** has the meaning ascribed to it in ~~{47 U.S.C. § 153(43), as that section existed on July 16, 1997.}~~

~~(b) “Telecommunications”~~ **section 11 of this act.**

~~(b) “Telecommunication service”~~ has the meaning ascribed to it in ~~{47 U.S.C. § 153(46), as that section existed on July 16, 1997.}~~ **section 13 of this act.**

Sec. 81. Section 2.285 of the Charter of the City of Henderson, being chapter 565, Statutes of Nevada 1997, at page 2752, is hereby amended to read as follows:

Sec. 2.285 Franchises for the provision of ~~{telecommunications}~~ **telecommunication** service.

1. The City Council shall not:

(a) Impose any terms or conditions on a franchise for the provision of ~~{telecommunications}~~ **telecommunication** service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~{telecommunications}~~ **telecommunication** service or interactive computer service to obtain a franchise if it provides ~~{telecommunications}~~ **telecommunication** service over the telephone or telegraph lines owned by another company.

(c) Require a person who holds a franchise for the provision of ~~{telecommunications}~~ **telecommunication** service or interactive computer service to place its facilities in ducts or conduits or on poles owned or leased by the City.

2. As used in this section:

(a) “Interactive computer service” has the meaning ascribed to it in 47 U.S.C. § ~~{230(e)(2),}~~ **230(f)(2)**, as that section existed on ~~{July 16, 1997.}~~

~~(b) “Telecommunications”~~ **January 1, 2007.**

~~(b) “Telecommunication service”~~ has the meaning ascribed to it in ~~{47 U.S.C. § 153(46), as that section existed on July 16, 1997.}~~ **section 13 of this act.**

Sec. 82. Section 2.300 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 416, Statutes of Nevada 2001, at page 2100, is hereby amended to read as follows:

Sec. 2.300 Powers of City Council: Provision of utilities.

1. Except as otherwise provided in subsection 3 and section 2.315, the City Council may:

(a) Provide, by contract, franchise or public ownership or operation, for any utility to be furnished to the residents of the City.

(b) Provide for the construction and maintenance of any facility which is necessary for the provision of those utilities.

(c) Prescribe, revise and collect rates, fees, tolls and charges, including fees for connection, for the services, facilities or commodities which are furnished by any municipally owned or municipally operated utility or undertaking and no rate, fee, toll or charge for the services, facilities or commodities which are furnished by any municipally owned or municipally operated utility or undertaking may be prescribed, revised, amended, altered, increased or decreased without proceeding as follows:

(1) There must be filed with the City Clerk and available for public inspection schedules of all rates, fees, tolls and charges which the City has established and which are in force at that time for any service which is performed or product which is furnished in connection with any utility which is owned or operated by the City.

(2) No change may be made in any of those schedules except upon 30 days' notice to the inhabitants of the City and the holding of a public hearing with respect to the proposed change. Notice of the proposed change must be given by at least two publications during the 30-day period before the hearing.

(3) At the time which is set for the hearing on the proposed change, any person may appear and be heard and offer any evidence in support of or against the proposed change.

(4) Every utility which is owned or operated by the City shall furnish reasonably adequate service and facilities, and the charges which are made for any service which is or will be rendered, or for any service which is connected with or incidental to any service which is or will be rendered, by the City must be just and reasonable.

2. Any rate, fee, toll or charge, including any fee for connection which is due for services, facilities or commodities which are furnished by the City or by any utility which is owned or operated by the City pursuant to this section is a lien upon the property to which the service is rendered. The lien:

(a) Must be perfected by filing with the County Recorder of the County a statement by the City Clerk in which he states the amount which is due and unpaid and describes the property which is subject to the lien.

(b) Is coequal with the latest lien upon that property to secure the payment of general taxes.

(c) Is not subject to extinguishment by the sale of any property on account of the nonpayment of general taxes.

(d) Is prior and superior to all liens, claims, encumbrances and titles, other than the liens of assessments and general taxes.

(e) May be enforced and foreclosed in such manner as may be prescribed by ordinance.

3. The City Council:

(a) Shall not sell ~~{telecommunications}~~ **telecommunication** service to the general public.

(b) May purchase or construct facilities for providing ~~{telecommunications}~~ **telecommunication** that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

4. Any information relating to the study conducted pursuant to subsection 3 must be maintained by the City Clerk and made available for public inspection during the business hours of the Office of the City Clerk.

5. Notwithstanding the provisions of paragraph (a) of subsection 3, an airport may sell ~~{telecommunications}~~ **telecommunication** service to the general public.

6. As used in this section:

(a) ~~{“Telecommunications”}~~ **“Telecommunication”** has the meaning ascribed to it in ~~{47 U.S.C. § 153(43), as that section existed on July 16, 1997.}~~

~~(b) ~~{“Telecommunications”}~~ section 11 of this act.~~

(b) **Telecommunication** service” has the meaning ascribed to it in ~~{47 U.S.C. § 153(46), as that section existed on July 16, 1997.}~~ **section 13 of this act.**

Sec. 83. Section 2.315 of the Charter of the City of Las Vegas, being chapter 565, Statutes of Nevada 1997, at page 2754, is hereby amended to read as follows:

Sec. 2.315 Franchises for the provision of ~~{telecommunications}~~ **telecommunication** service.

1. The City Council shall not:

(a) Impose any terms or conditions on a franchise for the provision of ~~{telecommunications}~~ **telecommunication** service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~{telecommunications}~~ **telecommunication** service or interactive computer service to obtain a franchise if it provides ~~{telecommunications}~~ **telecommunication** service over the telephone or telegraph lines owned by another company.

(c) Require a person who holds a franchise for the provision of ~~{telecommunications}~~ **telecommunication** service or interactive computer service to place its facilities in ducts or conduits or on poles owned or leased by the City.

2. As used in this section:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~{230(e)(2),}~~ **230(f)(2)**, as that section existed on ~~{July 16, 1997,~~

~~(b) "Telecommunications"} **January 1, 2007.**~~

(b) **"Telecommunication** service" has the meaning ascribed to it in ~~{47 U.S.C. § 153(46), as that section existed on July 16, 1997.}~~ **section 13 of this act.**

Sec. 84. Section 2.280 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 416, Statutes of Nevada 2001, at page 2103, is hereby amended to read as follows:

Sec. 2.280 Powers of City Council: Provision of utilities.

1. Except as otherwise provided in subsection 3 and section 2.285, the City Council may:

(a) Provide, by contract, franchise and public enterprise, for any utility to be furnished to the City for residents located within or without the City.

(b) Provide for the construction and maintenance of any facilities necessary for the provision of all such utilities.

(c) Prescribe, revise and collect rates, fees, tolls and charges for the services, facilities or commodities furnished by any municipally operated or municipally owned utility or undertaking. Notwithstanding any provision of this Charter to the contrary or in conflict herewith, no rates, fees, tolls or charges for the services, facilities or commodities furnished by any municipally operated or municipally owned utility or undertaking may be prescribed, revised, amended or altered, increased or decreased, without this procedure first being followed:

(1) There must be filed with the City Clerk schedules of rates, fees, tolls or charges which must be open to public inspection, showing all rates, fees, tolls or charges which the City has established and which are in force at the time for any service performed or product furnished in connection therewith by any utility controlled and operated by the City.

(2) No changes may be made in any schedule so filed with the City Clerk except upon 30 days' notice to the inhabitants of the City and a public hearing held thereon. Notice of the proposed change or changes must be given by at least two publications in a newspaper published in the City during the 30-day period before the hearing thereon.

(3) At the time set for the hearing on the proposed change, any person may appear and be heard and offer any evidence in support of or against the proposed change.

(4) Every utility operated by the City shall furnish reasonably adequate service and facilities, and the charges made for any service rendered or to be rendered, or for any service in connection therewith or incidental thereto, must be just and reasonable.

(d) Provide, by ordinance, for an additional charge to each business customer and for each housing unit within the City to which water is provided by a utility of up to 25 cents per month. If such a charge is provided

for, the City Council shall, by ordinance, provide for the expenditure of that money for any purpose relating to the beautification of the City.

2. Any charges due for services, facilities or commodities furnished by the City or by any utility operated by the City pursuant to this section is a lien upon the property to which the service is rendered and must be perfected by filing with the County Recorder of Clark County of a statement by the City Clerk stating the amount due and unpaid and describing the property subject to the lien. Each such lien must:

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

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

(c) Be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

3. The City Council:

(a) Shall not sell ~~{telecommunications}~~ **telecommunication** service to the general public.

(b) May purchase or construct facilities for providing ~~{telecommunications}~~ **telecommunication** that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

4. Any information relating to the study conducted pursuant to subsection 3 must be maintained by the City Clerk and made available for public inspection during the business hours of the Office of the City Clerk.

5. Notwithstanding the provisions of paragraph (a) of subsection 3, an airport may sell ~~{telecommunications}~~ **telecommunication** service to the general public.

6. As used in this section:

(a) "Housing unit" means a:

(1) Single-family dwelling;

(2) Townhouse, condominium or cooperative apartment;

(3) Unit in a multiple-family dwelling or apartment complex; or

(4) Mobile home.

(b) ~~{“Telecommunications”}~~ **“Telecommunication”** has the meaning ascribed to it in ~~{47 U.S.C. § 153(43), as that section existed on July 16, 1997.}~~

~~(c) “Telecommunications” section 11 of this act.~~

(c) **“Telecommunication** service” has the meaning ascribed to it in ~~{47 U.S.C. § 153(46), as that section existed on July 16, 1997.}~~ **section 13 of this act.**

Sec. 85. Section 2.285 of the Charter of the City of North Las Vegas, being chapter 565, Statutes of Nevada 1997, at page 2758, is hereby amended to read as follows:

Sec. 2.285 Franchises for the provision of ~~{telecommunications}~~ **telecommunication** service.

1. The City Council shall not:

(a) Impose any terms or conditions on a franchise for the provision of ~~{telecommunications}~~ **telecommunication** service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~{telecommunications}~~ **telecommunication** service or interactive computer service to obtain a franchise if it provides ~~{telecommunications}~~ **telecommunication** service over the telephone or telegraph lines owned by another company.

(c) Require a person who holds a franchise for the provision of ~~{telecommunications}~~ **telecommunication** service or interactive computer service to place its facilities in ducts or conduits or on poles owned or leased by the City.

2. As used in this section:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~{230(e)(2),}~~ 230(f)(2), as that section existed on ~~{July 16, 1997.}~~

~~(b) "Telecommunications" January 1, 2007.~~

~~(b) "Telecommunication service" has the meaning ascribed to it in {47 U.S.C. § 153(46), as that section existed on July 16, 1997.}~~ **section 13 of this act.**

Sec. 86. Section 2.140 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 325, Statutes of Nevada 2005, at page 1143, is hereby amended to read as follows:

Sec. 2.140 General powers of City Council.

1. Except as otherwise provided in subsection 2 and section 2.150, the City Council may:

(a) Acquire, control, improve and dispose of any real or personal property for the use of the City, its residents and visitors.

(b) Except as otherwise provided in NRS 598D.150 and 640C.100, regulate and impose a license tax for revenue upon all businesses, trades and professions.

(c) Provide or grant franchises for public transportation and utilities.

(d) Appropriate money for advertising and publicity and for the support of a municipal band.

(e) Enact and enforce any police, fire, traffic, health, sanitary or other measure which does not conflict with the general laws of the State of Nevada. An offense that is made a misdemeanor by the laws of the State of Nevada shall also be deemed to be a misdemeanor against the City whenever the offense is committed within the City.



(f) Fix the rate to be paid for any utility service provided by the City as a public enterprise. Any charges due for services, facilities or commodities furnished by any utility owned by the City is a lien upon the property to which the service is rendered and is perfected by filing with the County Recorder a statement by the City Clerk of the amount due and unpaid and describing the property subject to the lien. Any such lien is:

(1) Coequal with the latest lien upon the property to secure the payment of general taxes.

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

(3) Prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

2. The City Council:

(a) Shall not sell ~~{telecommunications}~~ **telecommunication** service to the general public.

(b) May purchase or construct facilities for providing ~~{telecommunications}~~ **telecommunication** that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

3. Any information relating to the study conducted pursuant to subsection 2 must be maintained by the City Clerk and made available for public inspection during the business hours of the Office of the City Clerk.

4. Notwithstanding the provisions of paragraph (a) of subsection 2, an airport may sell ~~{telecommunications}~~ **telecommunication** service to the general public.

5. As used in this section:

(a) ~~{“Telecommunications”}~~ **“Telecommunication”** has the meaning ascribed to it in ~~{47 U.S.C. § 153(43), as that section existed on July 16, 1997.}~~

~~(b) “Telecommunications” section 11 of this act.~~

(b) **“Telecommunication** service” has the meaning ascribed to it in ~~{47 U.S.C. § 153(46), as that section existed on July 16, 1997.}~~ **section 13 of this act.**

Sec. 87. Section 2.150 of the Charter of the City of Reno, being chapter 565, Statutes of Nevada 1997, at page 2761, is hereby amended to read as follows:

Sec. 2.150 Franchises for the provision of ~~{telecommunications}~~ **telecommunication** service.

1. The City Council shall not:

(a) Impose any terms or conditions on a franchise for the provision of ~~{telecommunications}~~ **telecommunication** service or interactive computer service other than terms or conditions concerning the placement and location

of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~{telecommunications}~~ **telecommunication** service or interactive computer service to obtain a franchise if it provides ~~{telecommunications}~~ **telecommunication** service over the telephone or telegraph lines owned by another company.

(c) Require a person who holds a franchise for the provision of ~~{telecommunications}~~ **telecommunication** service or interactive computer service to place its facilities in ducts or conduits or on poles owned or leased by the City.

2. As used in this section:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § ~~{230(e)(2),}~~ 230(f)(2), as that section existed on ~~{July 16, 1997.}~~

~~(b) "Telecommunications" January 1, 2007.~~

(b) "**Telecommunication** service" has the meaning ascribed to it in ~~{47 U.S.C. § 153(46), as that section existed on July 16, 1997.}~~ **section 13 of this act.**

Sec. 88. Section 2.110 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 416, Statutes of Nevada 2001, at page 2107, is hereby amended to read as follows:

Sec. 2.110 Powers of City Council: Provisions for utilities.

1. Except as otherwise provided in subsection 2 and section 2.115, the City Council may:

(a) Provide by contract, franchise or public enterprise, for any utility to be furnished to the City for the residents thereof.

(b) Provide for the construction of any facility necessary for the provisions of such utility.

(c) Fix the rate to be paid for any utility provided by public enterprise. Any charges due for services, facilities or commodities furnished by any utility owned by the City is a lien upon the property to which the service is rendered and must be performed by filing with the County Recorder a statement by the City Clerk of the amount due and unpaid and describing the property subject to the lien. Each such lien must:

(1) Be coequal with the latest lien thereon to secure the payment of general taxes.

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

(3) Be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes.

2. The City Council:

(a) Shall not sell ~~{telecommunications}~~ **telecommunication** service to the general public.

(b) May purchase or construct facilities for providing ~~{telecommunications}~~ **telecommunication** that intersect with public rights-of-way if the governing body:

(1) Conducts a study to evaluate the costs and benefits associated with purchasing or constructing the facilities; and

(2) Determines from the results of the study that the purchase or construction is in the interest of the general public.

3. Any information relating to the study conducted pursuant to subsection 2 must be maintained by the City Clerk and made available for public inspection during the business hours of the Office of the City Clerk.

4. Notwithstanding the provisions of paragraph (a) of subsection 2, an airport may sell ~~{telecommunications}~~ **telecommunication** service to the general public.

5. As used in this section:

(a) ~~{“Telecommunications”}~~ **“Telecommunication”** has the meaning ascribed to it in ~~{47 U.S.C. § 153(43), as that section existed on July 16, 1997.}~~

~~(b) “Telecommunications”~~ **section 11 of this act.**

~~(b) “Telecommunication service”~~ has the meaning ascribed to it in ~~{47 U.S.C. § 153(46), as that section existed on July 16, 1997.}~~ **section 13 of this act.**

Sec. 89. Section 2.115 of the Charter of the City of Sparks, being chapter 565, Statutes of Nevada 1997, at page 2763, is hereby amended to read as follows:

Sec. 2.115 Franchises for the provision of ~~{telecommunications}~~ **telecommunication** service.

1. The City Council shall not:

(a) Impose any terms or conditions on a franchise for the provision of ~~{telecommunications}~~ **telecommunication** service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides ~~{telecommunications}~~ **telecommunication** service or interactive computer service to obtain a franchise if it provides ~~{telecommunications}~~ **telecommunication** service over the telephone or telegraph lines owned by another company.

(c) Require a person who holds a franchise for the provision of ~~{telecommunications}~~ **telecommunication** service or interactive computer service to place its facilities in ducts or conduits or on poles owned or leased by the City.

2. As used in this section:

(a) “Interactive computer service” has the meaning ascribed to it in 47 U.S.C. § ~~{230(e)(2).}~~ **230(f)(2)**, as that section existed on ~~{July 16, 1997.}~~

~~(b) “Telecommunications”~~ **January 1, 2007.**

~~(b) “Telecommunication service”~~ has the meaning ascribed to it in ~~{47 U.S.C. § 153(46), as that section existed on July 16, 1997.}~~ **section 13 of this act.**

Sec. 90. NRS 704.68904, 704.68908, 704.6891, 704.68912, 704.68916, 704.6892, 704.68922, 704.68924, 704.68928, 704.68932, 704.68936, 704.6894, 704.68942, 704.68944, 704.68946, 704.68947, 704.68948, 704.68952, 704.68956, 704.6896, 704.68964, 704.68966, 704.68968, 704.68972, 704.68976, 704.6898 and 704.68984 are hereby repealed.

Sec. 91. 1. The Public Utilities Commission of Nevada shall:

(a) On or before December 31, 2007, repeal any regulations which the Commission has adopted pursuant to NRS 704.68904 to 704.68984, inclusive, and any other regulations which are inconsistent with this act; and

(b) Except as otherwise provided in subsections 2 and 3, on or before July 1, 2008, adopt any regulations which are required by or necessary to carry out the provisions of this act.

2. Notwithstanding any other provision of this act:

(a) In carrying out the provisions of NRS 704.6873, as amended by this act, the Commission shall:

(1) Commence a regulatory proceeding to establish the eligibility requirements for competitive suppliers that are providers of last resort to apply to receive payments from the fund to maintain the availability of telephone service based on the need of such competitive suppliers for funding to maintain the availability of telephone service to rural, insular and high-cost areas; and

(2) Conclude that regulatory proceeding and establish the eligibility requirements not later than January 1, 2009.

(b) Except for a small-scale provider of last resort, a competitive supplier that is a provider of last resort:

(1) May not apply to receive payments from the fund to maintain the availability of telephone service until the Commission has completed the regulatory proceeding required by this subsection; and

(2) Is not eligible to receive payments from the fund to maintain the availability of telephone service unless the competitive supplier meets the eligibility requirements established by the Commission in the regulatory proceeding required by this subsection.

3. Notwithstanding any other provision of this act, the Commission shall:

(a) As soon as reasonably practicable, commence a regulatory proceeding to adopt the regulations required by section 15 of this act; and

(b) Conclude that regulatory proceeding and adopt those regulations not later than March 1, 2008.

4. As used in this section, unless the context otherwise requires, the words and terms defined in NRS 704.007 to 704.030, inclusive, and sections 2 to 13, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 92. This act becomes effective upon passage and approval.

## LEADLINES OF REPEALED SECTIONS

704.68904 Definitions.

704.68908 "Affected person" defined.

704.6891 "Affiliate of an incumbent local exchange carrier" and "affiliate" defined.

704.68912 "Basic network service" defined.

704.68916 "Competitive service" defined.

704.6892 "Competitive supplier" defined.

704.68922 "Deregulated service" defined.

704.68924 "Discretionary service" defined.

704.68928 "Electing PAR carrier" defined.

704.68932 "Incumbent local exchange carrier" defined.

704.68936 "Local area of transport and access" or "LATA" defined.

704.6894 "Other essential service" defined.

704.68942 "PAR carrier" defined.

704.68944 "Price floor" defined.

704.68946 "Telecommunication" defined.

704.68947 "Telecommunication service" defined.

704.68948 Authority of PAR carrier to become electing PAR carrier for purposes of regulation; procedure for making election.

704.68952 Regulation of electing PAR carrier: Limitations on power of Commission regarding earnings and rates; termination and continuation of plan of alternative regulation; limitations on receipt of money from fund created pursuant to NRS 704.040.

704.68956 Regulation of electing PAR carrier: Approval of Commission required to discontinue or change terms and conditions relating to provision of certain basic network services.

704.6896 Reclassification of basic network services: Authority of Commission; adoption of criteria for reclassification; period for acting on request for reclassification from PAR carrier.

704.68964 Flexibility in pricing and terms of services: Authority of PAR carrier; procedure and requirements for exercising flexibility; PAR carrier permitted to bill customer using fixed price or amount for package of services.

704.68966 Flexibility in pricing and terms of services: Prohibition against anticompetitive acts and practices and unreasonable discrimination among similarly situated customers.

704.68968 Promotional price reductions: Notice; duration; geographic area; nondiscriminatory basis.

704.68972 Introduction of new services: Notice; conditions; exemption from certain regulations of Commission; classification; price.

704.68976 Rates for services to be averaged geographically; exception.

704.6898 Intrastate access prices: Maximum amount; offset of reductions.

704.68984 Powers and duties of Commission and PAR carriers under certain federal and state laws preserved.

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 518.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 604.

The following Senate amendment was read:

Amendment No. 886.

SUMMARY—Revises provisions governing ~~petitions for statewide~~ initiatives and referenda. (BDR 24-1396)

AN ACT relating to elections; **requiring the governing body of certain political subdivisions that submits a question to the voters to create a description of anticipated financial effect**; requiring certain persons or groups of persons advocating the passage or defeat of certain initiatives or referenda to provide various information to the Secretary of State concerning campaign contributions, expenditures and expenses; ~~requiring public hearings to be conducted concerning certain initiatives and referenda;~~ requiring circulators of certain petitions to attach an affidavit to each document of the petition; ~~requiring circulators of certain petitions to disclose their status as volunteer or paid circulators;~~ authorizing the Legislative Counsel to provide technical suggestions regarding certain initiatives and referenda; **requiring the governing body of a local government to prepare a description of anticipated financial effect when a petition for initiative or referendum is filed with the county or city clerk**; providing a civil penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Sections 2 and 3 of this bill require the governing body of certain political subdivisions that submits a question to the voters that will appear on the ballot at certain elections to create a description of the anticipated financial effect that such a question could have on the political subdivision if the question were approved by the voters. Sections 4 and 5 of this bill require that such descriptions appear on the sample ballots.**

Chapter 294A of NRS governs campaign practices. NRS 294A.150 and 294A.220 require persons or groups of persons advocating the passage or defeat of a question on a ballot to submit reports to the Secretary of State on campaign contributions, expenditures and expenses. **Sections 11 and 12 of this bill provide a higher reporting threshold for those persons or groups.** Section ~~13~~ 7 of this bill creates a new section for persons and groups of persons advocating the passage or defeat of a constitutional amendment or a statewide measure proposed by an initiative or referendum and that have received or expended at least \$10,000 for that purpose. The provisions of this

new section require such persons or groups to submit similar campaign contribution and expense reports to the Secretary of State on a different schedule, **with a higher reporting threshold** and with certain additional information. Section ~~44~~ **8** of this bill requires such persons and groups to appoint a resident agent who lives in Nevada, regardless of the amount of money they have received or expended. Section ~~45~~ **9** of this bill requires such persons and groups to file an organizational statement with the Secretary of State, regardless of the amount of money they have received or expended. Section ~~46~~ **10** of this bill requires such persons and groups who pay others to circulate petitions to disclose certain financial information to the Secretary of State. Section ~~43~~ **17** of this bill provides that such persons and groups who violate section ~~43~~ **7** are subject to civil penalties.

Chapter 295 of NRS governs petitions for statewide and local initiatives and referenda. Section ~~15~~ **19** of this bill requires the ~~Director of the Legislative Counsel Bureau to hold public hearings on statewide initiatives and referenda~~ **county clerks who receive the petitions for statewide initiatives or referenda for the purpose of signature verification to make copies of the petitions and make them available to the public for not less than 14 days.** Section ~~16~~ **20** of this bill requires petition circulators **for statewide measures or referenda** to attach an affidavit to each document of a petition attesting to ~~the veracity of each signature.~~ **certain information about the process of gathering signatures.** Section ~~17~~ **21** of this bill prohibits paying people to sign petitions. ~~Section 18 of this bill requires petition circulators to disclose whether they are paid or volunteer circulators.~~

Existing law requires the Secretary of State to consult with the Fiscal Analysis Division of the Legislative Counsel Bureau regarding the possible financial effect on the State of any **statewide** initiative or referendum. (NRS 295.015) Section ~~20~~ **24** of this bill requires the Secretary of State also to consult with the Legislative Counsel regarding each **statewide** initiative or referendum and authorizes the Legislative Counsel to make technical suggestions regarding the petition. **Sections 25 and 26 of this bill provide that when a petition for county initiative or referendum or municipal initiative or referendum is filed with the county or city clerk, the clerk is required to consult with the appropriate governing body to determine whether the initiative or referendum would have a financial effect on the local government, if approved by the voters. If the appropriate governing body determines that the initiative or referendum would have a financial effect, sections 25 and 26 require the governing body to create a description of the anticipated financial effect and require the appropriate clerk to post such a description on his Internet website, if he maintains an Internet website.**

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

Section 1. NRS 293.4687 is hereby amended to read as follows:

293.4687 1. The Secretary of State shall maintain a website on the Internet for public information maintained, collected or compiled by the Secretary of State that relates to elections, which must include, without limitation:

(a) The Voters' Bill of Rights required to be posted on his Internet website pursuant to the provisions of NRS 293.2549;

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293.388; and

(c) All reports on campaign contributions and expenditures submitted to the Secretary of State pursuant to the provisions of NRS 294A.120, 294A.125, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362 ~~[-]~~ **and section ~~293~~ 7 of this act.**

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by the Secretary of State pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by a county clerk or city clerk, the Secretary of State may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

**Sec. 2. NRS 293.481 is hereby amended to read as follows:**

293.481 1. Except as otherwise provided in subsection 2, ~~for NRS 295.121 or 295.217,~~ every governing body of a political subdivision, public or quasi-public corporation, or other local agency authorized by law to submit questions to the qualified electors or registered voters of a designated territory, when the governing body decides to submit a question:

(a) At a general election, shall provide to each county clerk within the designated territory on or before the third Monday in July preceding the election:

(1) A copy of the question, including an explanation of the question;

(2) ~~Arguments~~ **Except as otherwise provided in NRS 295.121 or 295.217, arguments** for and against the question; and

(3) ~~[[[~~ **A description of the anticipated financial effect on the local government which, if** the question is an advisory question that proposes a bond, tax, fee or expense, ~~[[a fiscal note prepared by the governing body]]~~ **must be prepared** in accordance with subsection 4 of NRS 293.482.

(b) At a primary election, shall provide to each county clerk within the designated territory on or before the second Friday after the first Monday in May preceding the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) ~~[[[~~ **A description of the anticipated financial effect on the local government which, if** the question is an advisory question that proposes a



bond, tax, fee or expense, ~~[a fiscal note prepared by the governing body]~~ **must be prepared** in accordance with subsection 4 of NRS 293.482.

(c) At any election other than a primary or general election at which the county clerk gives notice of the election or otherwise performs duties in connection therewith other than the registration of electors and the making of records of registered voters available for the election, shall provide to each county clerk at least 60 days before the election:

- (1) A copy of the question, including an explanation of the question;
- (2) Arguments for and against the question; and

(3) ~~[[[~~ **A description of the anticipated financial effect on the local government which, if** the question is an advisory question that proposes a bond, tax, fee or expense, ~~[a fiscal note prepared by the governing body]~~ **must be prepared** in accordance with subsection 4 of NRS 293.482.

(d) At any city election at which the city clerk gives notice of the election or otherwise performs duties in connection therewith, shall provide to the city clerk at least 60 days before the election:

- (1) A copy of the question, including an explanation of the question;
- (2) Arguments for and against the question; and

(3) ~~[[[~~ **A description of the anticipated financial effect on the local government which, if** the question is an advisory question that proposes a bond, tax, fee or expense, ~~[a fiscal note prepared by the governing body]~~ **must be prepared** in accordance with subsection 4 of NRS 293.482.

2. A question may be submitted after the dates specified in subsection 1 if the question is expressly privileged or required to be submitted pursuant to the provisions of Article 19 of the Constitution of the State of Nevada, or pursuant to the provisions of chapter 295 of NRS or any other statute except NRS 293.482, 354.59817, 354.5982, 387.3285 or 387.3287 or any statute that authorizes the governing body to issue bonds upon the approval of the voters.

3. A county or city clerk may charge any political subdivision, public or quasi-public corporation, or other local agency which submits a question a reasonable fee sufficient to pay for the increased costs incurred in including the question, explanation, arguments and ~~(fiscal note)~~ **description of the anticipated financial effect** on the ballot.

**Sec. 3. NRS 293.482 is hereby amended to read as follows:**

293.482 1. The governing body of a county or city may, at any general election or general city election, ask the advice of the registered voters within its jurisdiction on any question which it has under consideration. No other political subdivision, public or quasi-public corporation, or other local agency may ask the advice of the registered voters within its jurisdiction on any question which it has under consideration.

2. To place an advisory question on the ballot at a general election or general city election, the governing body of a county or city must:

- (a) Adopt a resolution that:
  - (1) Sets forth:

(I) The question, in language indicating clearly that the question is advisory only;

(II) An explanation of the question;

(III) Except as otherwise provided in NRS 295.121 and 295.217, arguments for and against the question; and

(IV) ~~##~~ **A description of the anticipated financial effect on the local government which, if** the question is an advisory question that proposes a bond, tax, fee or expense, ~~[a fiscal note]~~ **must be** prepared by the governing body in accordance with subsection 4; and

(2) States that the result of the voting on the question does not place any legal requirement on the governing body, any member of the governing body or any officer of the political subdivision; and

(b) Comply with the requirements of paragraph (a) or (d) of subsection 1 of NRS 293.481.

3. A governing body may, at any general election, ask the advice of the registered voters of part of its territory if:

(a) The advisory question to be submitted affects only that part of its territory; and

(b) The resolution adopted pursuant to subsection 2 sets forth the boundaries of the area in which the advice of the registered voters will be asked.

4. With respect to a ~~[fiscal note]~~ **description of the anticipated financial effect** that is required in connection with an advisory question:

(a) If, in the advisory question, the governing body seeks advice on whether bonds should be issued, the ~~[fiscal note]~~ **description** must include any information that is required by law to be included on the sample ballot pursuant to the provisions of law that govern the procedure for issuance of the applicable type of bond.

(b) If, in the advisory question, the governing body seeks advice on whether a limitation upon revenue from taxes ad valorem should be exceeded, the ~~[fiscal note]~~ **description** must include any information that is required by law to be included on the sample ballot pursuant to the provisions of law that govern the procedure for exceeding that limitation.

(c) If, in the advisory question, the governing body seeks advice on whether a tax other than a property tax described in paragraph (b) should be levied, the ~~[fiscal note]~~ **description** must:

(1) Identify the average annual cost that is expected to be incurred by the affected taxpayers if the tax were to be levied;

(2) Specify the period over which the tax is proposed to be levied;

(3) Disclose whether, in connection with the levy of the tax, revenue bonds are to be sold which will be backed by the full faith and credit of the assessed value of the applicable local government; and

(4) If applicable, specify whether, in connection with or following the levy of the tax, additional expenses are expected to be incurred to pay for the operation or maintenance of any program or service to be provided from the

proceeds of the tax or to pay for the operation or maintenance of any building, equipment, facility, machinery, property, structure, vehicle or other thing of value to be purchased, improved or repaired with the proceeds of the tax.

(d) If, in the advisory question, the governing body seeks advice on whether a fee should be imposed, the ~~fiscal note~~ **description** must:

(1) Identify the average annual cost that is expected to be incurred by the affected users if the fee were to be imposed;

(2) Specify the period over which the fee is proposed to be imposed; and

(3) If applicable, specify whether, in connection with or following the imposition of the fee, additional expenses are expected to be incurred to pay for

the program or service to be provided from the proceeds of the fee or to pay for the operation or maintenance of any building, equipment, facility, machinery, property, structure, vehicle or other thing of value to be purchased, improved or repaired with the proceeds of the fee.

(e) If, in the advisory question, the governing body seeks advice on whether the applicable local government should incur an expense, the ~~fiscal note~~ **description** must:

(1) Identify the source of revenue that will be used to pay the expense;

(2) Disclose whether it is expected that the incurring of the expense will require the levy or imposition of a new tax or fee or the increase of an existing tax or fee; and

(3) If a tax or fee is proposed to be levied or imposed or increased to pay the expense, contain the information required pursuant to paragraph (c) or (d), as applicable.

5. On the sample ballot for the general election or general city election, each advisory question must appear:

(a) With a title in substantially the following form: “Advisory Ballot Question No. ...”; and

(b) With its explanation, arguments and ~~if required, fiscal note,~~ **description of the anticipated financial effect.**

6. The Committee on Local Government Finance shall prepare sample advisory ballot questions to demonstrate, for each situation enumerated in paragraphs (a) to (e), inclusive, of subsection 4, examples of the manner in which ~~fiscal notes~~ **descriptions of the anticipated financial effect** should be prepared.

**Sec. 4. NRS 293.565 is hereby amended to read as follows:**

293.565 1. Except as otherwise provided in subsection 2, sample ballots must include:

(a) If applicable, the statement required by NRS 293.267;

(b) The fiscal note ~~or~~ **or description of anticipated financial effect**, as provided pursuant to NRS 218.443, 293.250, 293.481 ~~for 293.482,~~ **293.482, 295.015 or 295.095** for each proposed constitutional amendment,

statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(c) An explanation, as provided pursuant to NRS 218.443, 293.250, 293.481, 293.482 or 295.121, of each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(d) Arguments for and against each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question, and rebuttals to each argument, as provided pursuant to NRS 218.443, 293.250, 293.252, 293.481, 293.482 or 295.121; and

(e) The full text of each proposed constitutional amendment.

2. Sample ballots that are mailed to registered voters may be printed without the full text of each proposed constitutional amendment if:

(a) The cost of printing the sample ballots would be significantly reduced if the full text of each proposed constitutional amendment were not included;

(b) The county clerk ensures that a sample ballot that includes the full text of each proposed constitutional amendment is provided at no charge to each registered voter who requests such a sample ballot; and

(c) The sample ballots provided to each polling place include the full text of each proposed constitutional amendment.

3. Before the period for early voting, but not later than 10 days before any election, the county clerk shall cause to be mailed to each registered voter in the county a sample ballot for his precinct with a notice informing the voter of the location of his polling place. If the location of the polling place has changed since the last election:

(a) The county clerk shall mail a notice of the change to each registered voter in the county not sooner than 10 days before mailing the sample ballots; or

(b) The sample ballot must also include a notice in bold type immediately above the location which states:

**NOTICE: THE LOCATION OF YOUR POLLING PLACE  
HAS CHANGED SINCE THE LAST ELECTION**

4. Except as otherwise provided in subsection 5, a sample ballot required to be mailed pursuant to this section must:

(a) Be printed in at least 12-point type; and

(b) Include on the front page, in a separate box created by bold lines, a notice printed in at least 20-point bold type that states:

**NOTICE: TO RECEIVE A SAMPLE BALLOT IN  
LARGE TYPE, CALL (Insert appropriate telephone number)**

5. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

6. The sample ballot mailed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in

any other manner, must be printed in at least 14-point type, or larger when practicable.

7. If a person requests a sample ballot in large type, the county clerk shall ensure that all future sample ballots mailed to that person from the county are in large type.

8. The county clerk shall include in each sample ballot a statement indicating that the county clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his polling place and provide reasonable assistance to the voter in casting his vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the county clerk has provided pursuant to subsection 4 of NRS 293.2955 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the county clerk shall include in the sample ballot a statement indicating:

- (a) The addresses of such centralized voting locations;
- (b) The types of specially equipped voting devices available at such centralized voting locations; and
- (c) That a voter who is elderly or disabled may cast his ballot at such a centralized voting location rather than at his regularly designated polling place.

9. The cost of mailing sample ballots for any election other than a primary or general election must be borne by the political subdivision holding the election.

**Sec. 5. NRS 293C.530 is hereby amended to read as follows:**

293C.530 1. Before the period for early voting, but not later than 10 days before an election, the city clerk shall cause to be mailed to each registered voter in the city a sample ballot for his precinct with a notice informing the voter of the location of his polling place. If the location of the polling place has changed since the last election:

- (a) The city clerk shall mail a notice of the change to each registered voter in the city not sooner than 10 days before mailing the sample ballots; or
- (b) The sample ballot must also include a notice in bold type immediately above the location which states:

**NOTICE: THE LOCATION OF YOUR POLLING PLACE  
HAS CHANGED SINCE THE LAST ELECTION**

2. Except as otherwise provided in subsection 3, a sample ballot required to be mailed pursuant to this section must:

- (a) Be printed in at least 12-point type;
- (b) Include the ~~[fiscal note]~~ **description of the anticipated financial effect** and explanation ~~[, as required pursuant to NRS 293.481 or 293.482,]~~ of each citywide measure and advisory question, including arguments for and against ~~[it]~~ **the measure or question, as required pursuant to NRS 293.481, 293.482, 295.205 or 295.217;** and

(c) Include on the front page, in a separate box created by bold lines, a notice printed in at least 20-point bold type that states:

**NOTICE: TO RECEIVE A SAMPLE BALLOT IN**

**LARGE TYPE, CALL** (Insert appropriate telephone number)

3. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

4. The sample ballot mailed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be printed in at least 14-point type, or larger when practicable.

5. If a person requests a sample ballot in large type, the city clerk shall ensure that all future sample ballots mailed to that person from the city are in large type.

6. The city clerk shall include in each sample ballot a statement indicating that the city clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his polling place and provide reasonable assistance to the voter in casting his vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the city clerk has provided pursuant to subsection 4 of NRS 293C.281 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the city clerk shall include in the sample ballot a statement indicating:

(a) The addresses of such centralized voting locations;

(b) The types of specially equipped voting devices available at such centralized voting locations; and

(c) That a voter who is elderly or disabled may cast his ballot at such a centralized voting location rather than at his regularly designated polling place.

7. The cost of mailing sample ballots for a city election must be borne by the city holding the election.

~~{Sec. 2.}~~ **Sec. 6.** Chapter 294A of NRS is hereby amended by adding thereto the sections set forth as sections ~~{3 to 6.}~~ **7 to 10**, inclusive, of this act.

~~{Sec. 3.}~~ **Sec. 7. 1. Every person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, including, without limitation, the initiation or circulation thereof, and who receives or expends money in an amount in excess of \$10,000 for such advocacy shall, not later than the dates listed in subsection 2, report:**

**(a) Each campaign contribution in excess of ~~(\$100)~~ \$1,000 received during each period described in subsection 2;**

(b) Contributions received during each period described in subsection 2 from a contributor which cumulatively exceed ~~[\$100]~~ \$1,000;

(c) Each expenditure in excess of ~~[\$100]~~ \$1,000 the person or group of persons makes during each period described in subsection 2; and

(d) The total amount of money the person or group of persons has at the beginning of each period described in subsection 2, accounting for all contributions received and expenditures made during each previous period.

2. Every person or group of persons required to report pursuant to subsection 1 shall file that report with the Secretary of State:

(a) For the period beginning on the first day a copy of the petition may be filed with the Secretary of State before it is circulated for signatures pursuant to Section 1 or Section 2 of Article 19 of the Nevada Constitution, as applicable, and ending on the following March 31, not later than April 15;

(b) For the period beginning on April 1 and ending on July 31, not later than August 15;

(c) For the period beginning on August 1 and ending on September 30, not later than October 15; and

(d) For the period beginning on October 1 and ending on December 31, not later than the following January 15.

3. The name and address of the contributor and the date on which the contribution was received must be included on each report for each contribution in excess of ~~[\$100]~~ \$1,000 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the applicable reporting period.

4. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in each report.

5. Each report required pursuant to this section must:

(a) Be on the form designed and provided by the Secretary of State pursuant to NRS 294A.373; and

(b) Be signed by the person or a representative of the group of persons under penalty of perjury.

6. A person or group of persons may mail or transmit each report to the Secretary of State by certified mail, regular mail, facsimile machine or electronic means or may deliver the report personally.

7. A report shall be deemed to be filed with the Secretary of State:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the Secretary of State if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

~~[Sec. 4.]~~ Sec. 8. Each person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum

*shall appoint and keep within this State a resident agent who must be a natural person who resides in this State.*

~~{Sec. 5.}~~ *Sec. 9. 1. Each person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, before engaging in any such advocacy in this State, shall file a statement of organization with the Secretary of State as provided in subsection 2.*

*2. Each statement of organization must include:*

- (a) The name of the person or group of persons;*
- (b) The purpose for which the person or group of persons is organized;*
- (c) The names and addresses of any officers of the person or group of persons;*

*(d) If the person or group of persons is affiliated with or is retained by any other person or group for the purpose of advocating the passage or defeat of a constitutional amendment or statewide measure proposed by initiative or referendum, the name and address of each such other person or group; and*

*(e) The name, address and telephone number of the resident agent of the person or group of persons.*

*3. A person or group of persons which has filed a statement of organization pursuant to this section shall file an amended statement with the Secretary of State within 30 days of any changes to the information required pursuant to subsection 2.*

~~{Sec. 6.}~~ *Sec. 10. 1. Each person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum that provides compensation to persons to circulate petitions shall report to the Secretary of State:*

- (a) The number of persons to whom such compensation is provided;*
- (b) The least amount of such compensation that is provided and the greatest amount of such compensation that is provided; and*
- (c) The total amount of compensation provided.*

*2. The Secretary of State shall make public any information received pursuant to this section.*

~~{Sec. 7.}~~ *Sec. 11. NRS 294A.150 is hereby amended to read as follows:*

*294A.150 1. ~~{Every}~~ Except as otherwise provided in section ~~{24}~~ 7 of this act, every* person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election ~~{and every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who~~



~~receives or expends money in an amount in excess of \$10,000 to support such initiation or circulation]~~ shall, not later than January 15 of each year that the provisions of this subsection apply to the person or group of persons, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of ~~(\$100)~~ \$1,000 received during that period and contributions received during the period from a contributor which cumulatively exceed ~~(\$100)~~ \$1,000. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury. The provisions of this subsection apply to the person or group of persons:

(a) Each year in which an election or city election is held for each question for which the person or group advocates passage or defeat ; ~~for each year in which a person or group receives or expends money in excess of \$10,000 to support the initiation or circulation of a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum;~~ and

(b) The year after each year described in paragraph (a).

2. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election, for the period from 11 days before the general election or general city election through June 30 of that year,

→ report each campaign contribution in excess of ~~(\$100)~~ \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed ~~(\$100)~~ \$1,000. The report must be completed on the form designed and provided by the Secretary of State

pursuant to NRS 294A.373 and signed by the person or a representative of the group under penalty of perjury.

3. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of ~~[\$100]~~ \$1,000 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

4. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. ~~[[~~ *Except as otherwise provided in section 7 of this act, if* a question is on the ballot at a general election or general city election held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. ~~[Every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of \$10,000 to support such initiation or circulation shall comply with the requirements of this subsection.]~~ A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election, ➤ report each campaign contribution in excess of ~~[\$100]~~ \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed ~~[\$100]~~ \$1,000. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

5. Except as otherwise provided in subsection 6, every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:

(a) Seven days before the special election, for the period from the date that the question qualified for the ballot through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➔ report each campaign contribution in excess of ~~[\$100]~~ \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed ~~[\$100]~~ \$1,000. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

6. Every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a special election to determine whether a public officer will be recalled shall report each of the contributions received on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

7. The reports required pursuant to this section must be filed with:

(a) If the question is submitted to the voters of one county, the county clerk of that county;

(b) If the question is submitted to the voters of one city, the city clerk of that city; or

(c) If the question is submitted to the voters of more than one county or city, the Secretary of State.

8. A person may mail or transmit his report to the appropriate officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. If the person or group of persons is advocating passage or defeat of a group of questions, ~~{or is receiving or expending money to support a group of petitions for constitutional amendments, a group of petitions for statewide measures proposed by initiative or referendum or a group of petitions for both constitutional amendments and statewide measures proposed by initiative or referendum,}~~ the reports must be itemized by question or petition.

10. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.

~~[Sec. 8.]~~ **Sec. 12.** NRS 294A.220 is hereby amended to read as follows:

294A.220 1. ~~[Every]~~ ***Except as otherwise provided in section ~~#3~~ 7 of this act, every*** person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election ~~[and every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of \$10,000 to support such initiation or circulation]~~ shall, not later than January 15 of each year that the provisions of this subsection apply to the person or group of persons, for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of ~~[\$100]~~ **\$1,000** on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury. The provisions of this subsection apply to the person or group of persons:

(a) Each year in which an election or city election is held for a question for which the person or group advocates passage or defeat ; ~~[for each year in which a person or group of persons receives or expends money in excess of \$10,000 to support the initiation or circulation of a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum;]~~ and

(b) The year after each year described in paragraph (a).

2. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or

primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election, for the period from 11 days before the general election or general city election through the June 30 immediately preceding that July 15,

→ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of ~~(\$100)~~ **\$1,000** on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group under penalty of perjury.

3. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. ~~##~~ **Except as otherwise provided in section 7 of this act, if** a question is on the ballot at a general election or general city election held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. ~~[Every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of \$10,000 to support such initiation or circulation shall comply with the requirements of this subsection.]~~ A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

→ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of ~~(\$100)~~ **\$1,000** on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

4. Except as otherwise provided in subsection 5, every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:

(a) Seven days before the special election, for the period from the date the question qualified for the ballot through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➤ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of ~~(\$100)~~ \$1,000 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

5. Every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a special election to determine whether a public officer will be recalled shall list each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of ~~(\$100)~~ \$1,000 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.

7. The reports required pursuant to this section must be filed with:

(a) If the question is submitted to the voters of one county, the county clerk of that county;

(b) If the question is submitted to the voters of one city, the city clerk of that city; or

(c) If the question is submitted to the voters of more than one county or city, the Secretary of State.

8. If an expenditure is made on behalf of a group of questions, ~~for a group of petitions for constitutional amendments, a group of petitions for statewide measures proposed by initiative or referendum or a group of petitions for both constitutional amendments and statewide measures proposed by initiative or referendum,~~ the reports must be itemized by

question or petition. A person may mail or transmit his report to the appropriate filing officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the filing officer:

- (a) On the date that it was mailed if it was sent by certified mail; or
- (b) On the date that it was received by the filing officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.

~~[Sec. 9.]~~ **Sec. 13.** NRS 294A.365 is hereby amended to read as follows:

294A.365 1. Each report of expenditures required pursuant to NRS 294A.210, 294A.220 and 294A.280 *and section ~~7~~ 7 of this act* must consist of a list of each expenditure in excess of \$100 or \$1,000, as is appropriate, that was made during the periods for reporting. Each report of expenses required pursuant to NRS 294A.125 and 294A.200 must consist of a list of each expense in excess of \$100 that was incurred during the periods for reporting. The list in each report must state the category and amount of the expense or expenditure and the date on which the expense was incurred or the expenditure was made.

2. The categories of expense or expenditure for use on the report of expenses or expenditures are:

- (a) Office expenses;
- (b) Expenses related to volunteers;
- (c) Expenses related to travel;
- (d) Expenses related to advertising;
- (e) Expenses related to paid staff;
- (f) Expenses related to consultants;
- (g) Expenses related to polling;
- (h) Expenses related to special events;
- (i) Except as otherwise provided in NRS 294A.362, goods and services provided in kind for which money would otherwise have been paid; and
- (j) Other miscellaneous expenses.

3. Each report of expenses or expenditures described in subsection 1 must list the disposition of any unspent campaign contributions using the categories set forth in subsection 2 of NRS 294A.160.

~~[Sec. 10.]~~ **Sec. 14.** NRS 294A.373 is hereby amended to read as follows:

294A.373 1. The Secretary of State shall design a single form to be used for all reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362 ~~and section ~~7~~ 7 of this act~~.

2. The form designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. Upon request, the Secretary of State shall provide a copy of the form designed pursuant to this section to each person, committee, political party and group that is required to file a report described in subsection 1.

4. The Secretary of State must obtain the advice and consent of the Legislative Commission before providing a copy of a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party or group that is required to use the form.

~~{Sec. 11.}~~ **Sec. 15.** NRS 294A.390 is hereby amended to read as follows:

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;
2. An acceptance of candidacy;
3. The registration of a committee for political action pursuant to NRS 294A.230 or a committee for the recall of a public officer pursuant to NRS 294A.250; or

4. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 or 294A.360, **or section ~~13~~ 7 of this act,**

↪ shall furnish the candidate with the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 or 294A.360 **or section ~~13~~ 7 of this act** relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420 must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

~~{Sec. 12.}~~ **Sec. 16.** NRS 294A.400 is hereby amended to read as follows:

294A.400 The Secretary of State shall, within 30 days after receipt of the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270 and 294A.280, **and section ~~13~~ 7 of this act,** prepare and make available for public inspection a compilation of:

1. The total campaign contributions, the contributions which are in excess of \$100 and the total campaign expenses of each of the candidates from whom reports of those contributions and expenses are required.
2. The total amount of loans to a candidate guaranteed by a third party, the total amount of loans made to a candidate that have been forgiven and the



total amount of written commitments for contributions received by a candidate.

3. The contributions made to a committee for the recall of a public officer in excess of \$100.

4. The expenditures exceeding \$100 made by a:

(a) Person on behalf of a candidate other than himself.

~~(b) Person or group of persons on behalf of or against a question or group of questions on the ballot.~~

~~(c)~~ Group of persons advocating the election or defeat of a candidate.

~~(d)~~ (c) Committee for the recall of a public officer.

5. The contributions in excess of \$100 made to:

(a) A person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group.

~~(b) A person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot.~~

~~(c)~~ A committee for political action, political party or committee sponsored by a political party which makes an expenditure on behalf of a candidate or group of candidates.

**6. The contributions in excess of \$1,000 made to and the expenditures exceeding \$1,000 made by a:**

**(a) Person or group of persons on behalf of or against a question or group of questions on the ballot, except as otherwise provided in paragraph (c).**

**(b) Person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot, except as otherwise provided in paragraph (c).**

**(c) Person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, including, without limitation, the initiation or circulation thereof, and who receives or expends money in an amount in excess of \$10,000 for such advocacy.**

~~{Sec. 13.}~~ **Sec. 17.** NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280 or 294A.360 **or section ~~{3}~~ 7 of this act** has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.300, 294A.310, 294A.320 or 294A.360 ~~or section 13~~ **7 of this act** is subject to a civil penalty of not more than \$5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, \$25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, \$50 for each day the report is late.

(c) If the report is more than 15 days late, \$100 for each day the report is late.

↪ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of \$100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

~~{Sec. 14.}~~ **Sec. 18.** Chapter 295 of NRS is hereby amended by adding thereto the sections set forth as sections ~~{15 to 18, inclusive,}~~ **19, 20 and 21** of this act.

~~{Sec. 15.}~~ **Sec. 19.** ~~{1. The Director of the Legislative Counsel Bureau shall hold a public hearing on each petition for initiative or referendum that has been filed with the Secretary of State.~~

~~2. Each public hearing required pursuant to this section must be held not later than 10 days nor more than 20 days before the general election at which the initiative or referendum is submitted for popular vote.~~

~~3. The Legislative Counsel Bureau shall provide such staff as is necessary to provide appropriate research and analysis of the initiative or referendum at each public hearing required pursuant to this section.~~

~~4. Each public hearing required pursuant to this section must be an opportunity for public discussion of:~~

~~(a) Technical matters relating to the petition, including, without limitation, compliance with the requirements of NRS 295.009; and~~

~~(b) The substantive content of the initiative or referendum.] After a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or referendum is submitted for signature verification to the county clerk, the county clerk shall make true and correct copies of all the documents of the petition and signatures thereon and shall make such copies and signatures available to the public for a period of not less than 14 days.~~

~~[Sec. 16.]~~ *Sec. 20. A petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or referendum may consist of more than one document. Each document of a petition must have attached to it when submitted an affidavit executed by the circulator thereof stating:*

- 1. That he personally circulated the document;*
- 2. The number of signatures thereon;*
- 3. That all the signatures were affixed in his presence; and*
- 4. ~~[That he believes the signatures to be the genuine signatures of the persons whose names they purport to be; and~~*
- 5.] That each signer had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.*

~~[Sec. 17.]~~ *Sec. 21. A person shall not give compensation of any kind to any person in exchange for signing a petition for initiative or referendum.*

~~[Sec. 18.]~~ *Sec. 22. ~~[Each person circulating a petition for initiative or referendum who~~*

~~1. Is not receiving or will not receive any compensation for circulating the petition shall disclose to signers of the petition his status as a volunteer;~~

~~2. Is receiving or will receive any compensation for circulating the petition shall disclose to signers of the petition his status as a paid circulator.] (Deleted by amendment.)~~

~~[Sec. 19.]~~ *Sec. 23. (Deleted by amendment.)*

~~[Sec. 20.]~~ *Sec. 24. NRS 295.015 is hereby amended to read as follows:*

295.015 1. Before a petition for initiative or referendum may be presented to the registered voters for their signatures, a copy of the petition for initiative or referendum, including the description required pursuant to NRS 295.009, must be placed on file with the Secretary of State.

2. Upon receipt of a petition for initiative or referendum placed on file pursuant to subsection 1 ~~[, the]~~ :

(a) *The* Secretary of State shall consult with the Fiscal Analysis Division of the Legislative Counsel Bureau to determine if the initiative or referendum

may have any anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters. If the Fiscal Analysis Division determines that the initiative or referendum may have an anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters, the Division must prepare a fiscal note that includes an explanation of any such effect.

*(b) The Secretary of State shall consult with the Legislative Counsel regarding the petition for initiative or referendum. The Legislative Counsel may provide technical suggestions regarding the petition for initiative or referendum.*

3. Not later than 10 business days after the Secretary of State receives a petition for initiative or referendum filed pursuant to subsection 1, the Secretary of State shall post a copy of the petition, including the description required pursuant to NRS 295.009 , ~~and~~ any fiscal note prepared pursuant to subsection 2 ~~and~~ *and any suggestions made by the Legislative Counsel pursuant to subsection 2*, on his Internet website.

**Sec. 25. NRS 295.095 is hereby amended to read as follows:**

295.095 1. Any five registered voters of the county may commence initiative or referendum proceedings by filing with the county clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

2. Initiative petitions must be signed by a number of registered voters of the county equal to 15 percent or more of the number of voters who voted at the last preceding general election in the county.

3. Referendum petitions must be signed by a number of registered voters of the county equal to 10 percent or more of the number of voters who voted at the last preceding general election in the county.

4. *Upon receipt of a petition for initiative or referendum placed on file pursuant to subsection 1, the county clerk shall consult with the board to determine if the initiative or referendum may have any anticipated financial effect on the local government if the initiative or referendum is approved by the voters. If the board determines that the initiative or referendum may have an anticipated financial effect on the local government if the initiative or referendum is approved by the voters, the board must prepare a description of the anticipated financial effect and the county clerk shall post a copy of this information on his Internet website, if he maintains one.*

5. A petition must be submitted to the county clerk for verification, pursuant to NRS 295.250 to 295.290, inclusive, not later than:

(a) One hundred and eighty days after the date that the affidavit required by subsection 1 is filed with the county clerk; or

(b) One hundred and thirty days before the election,

↪ whichever is earlier.

~~{5}~~ 6. A petition may consist of more than one document, but all documents of a petition must be uniform in size and style, numbered and assembled as one instrument for submission. Each signature must be executed in ink or indelible pencil and followed by the address of the person signing and the date on which he signed the petition. All signatures on a petition must be obtained within the period specified in subsection ~~{4}~~ 5. Each document must contain, or have attached thereto throughout its circulation, the full text of the ordinance proposed or sought to be reconsidered.

~~{6}~~ 7. Each document of a petition must have attached to it when submitted an affidavit executed by the circulator thereof stating:

- (a) That he personally circulated the document;
- (b) The number of signatures thereon;
- (c) That all the signatures were affixed in his presence;

~~{(d)} That he believes them to be genuine signatures of the persons whose names they purport to be;~~ and

~~{(e)}~~ (d) That each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

~~{7}~~ 8. The county clerk shall issue a receipt to any person who submits a petition pursuant to this section. The receipt must set forth the number of:

- (a) Documents included in the petition;
- (b) Pages in each document; and
- (c) Signatures that the person declares are included in the petition.

**Sec. 26. NRS 295.205 is hereby amended to read as follows:**

295.205 1. Any five registered voters of the city may commence initiative or referendum proceedings by filing with the city clerk an affidavit:

(a) Stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form;

(b) Stating their names and addresses;

(c) Specifying the address to which all notices to the committee are to be sent; and

(d) Setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

2. Initiative petitions must be signed by a number of registered voters of the city equal to 15 percent or more of the number of voters who voted at the last preceding city election.

3. Referendum petitions must be signed by a number of registered voters of the city equal to 10 percent or more of the number of voters who voted at the last preceding city election.

4. Upon receipt of a petition for initiative or referendum placed on file pursuant to subsection 1, the city clerk shall consult with the council to determine if the initiative or referendum may have any anticipated financial effect on the local government if the initiative or referendum is approved by the voters. If the council determines that the initiative or

*referendum may have an anticipated financial effect on the local government if the initiative or referendum is approved by the voters, the council must prepare a description of the anticipated financial effect and the city clerk shall post a copy of this information on his Internet website, if he maintains one.*

~~5.~~ 5. A petition must be submitted to the city clerk for verification, pursuant to NRS 295.250 to 295.290, inclusive, not later than:

(a) One hundred and eighty days after the date that the affidavit required by subsection 1 is filed with the city clerk; or

(b) One hundred and thirty days before the election,

→ whichever is earlier.

~~5.1~~ 6. A petition may consist of more than one document, but all documents of a petition must be uniform in size and style, numbered and assembled as one instrument for submission. Each signature must be executed in ink or indelible pencil and followed by the address of the person signing and the date on which he signed the petition. All signatures on a petition must be obtained within the period specified in subsection ~~4.1~~ 5. Each document must contain, or have attached thereto throughout its circulation, the full text of the ordinance proposed or sought to be reconsidered.

~~6.1~~ 7. Each document of a petition must have attached to it when submitted an affidavit executed by the circulator thereof stating:

(a) That he personally circulated the document;

(b) The number of signatures thereon;

(c) That all the signatures were affixed in his presence;

~~[(d) That he believes them to be genuine signatures of the persons whose names they purport to be.]~~ and

~~[(e)]~~ (d) That each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

~~7.1~~ 8. The city clerk shall issue a receipt to any person who submits a petition pursuant to this section. The receipt must set forth the number of:

(a) Documents included in the petition;

(b) Pages in each document; and

(c) Signatures that the person declares are included in the petition.

**Sec. 27. NRS 295.217 is hereby amended to read as follows:**

295.217 1. In a city whose population is 10,000 or more, for each initiative, referendum or other question to be placed on the ballot by the:

(a) Council, including, without limitation, pursuant to NRS 293.482 or 295.215; or

(b) Governing body of a public library or water district authorized by law to submit questions to some or all of the qualified electors or registered voters of the city,

→ the council shall, in consultation pursuant to subsection 5 with the city clerk or other city officer authorized to perform the duties of the city clerk, appoint two committees. Except as otherwise provided in subsection 2, one

committee must be composed of three persons who favor approval by the voters of the initiative, referendum or other question and the other committee must be composed of three persons who oppose approval by the voters of the initiative, referendum or other question.

2. If, after consulting with the city clerk pursuant to subsection 5, the council is unable to appoint three persons willing to serve on a committee, the council may appoint fewer than three persons to that committee, but the council must appoint at least one person to each committee appointed pursuant to this section.

3. With respect to a committee appointed pursuant to this section:

(a) A person may not serve simultaneously on the committee that favors approval by the voters of an initiative, referendum or other question and the committee that opposes approval by the voters of that initiative, referendum or other question.

(b) Members of the committee serve without compensation.

(c) The term of office for each member commences upon appointment and expires upon the publication of the sample ballot containing the initiative, referendum or other question.

4. The city clerk may establish and maintain a list of the persons who have expressed an interest in serving on a committee appointed pursuant to this section. The city clerk, after exercising due diligence to locate persons who favor approval by the voters of an initiative, referendum or other question to be placed on the ballot or who oppose approval by the voters of an initiative, referendum or other question to be placed on the ballot, may use the names on a list established pursuant to this subsection to:

(a) Make recommendations pursuant to subsection 5; and

(b) Appoint members to a committee pursuant to subsection 6.

5. Before the council appoints a committee pursuant to this section, the city clerk shall:

(a) Recommend to the council persons to be appointed to the committee; and

(b) Consider recommending pursuant to paragraph (a):

(1) Any person who has expressed an interest in serving on the committee; and

(2) A person who is a member of an organization that has expressed an interest in having a member of the organization serve on the committee.

6. If the council of a city whose population is 10,000 or more fails to appoint a committee as required pursuant to this section, the city clerk shall, in consultation with the city attorney, prepare an argument advocating approval by the voters of the initiative, referendum or other question and an argument opposing approval by the voters of the initiative, referendum or other question. Each argument prepared by the city clerk must satisfy the requirements of paragraph (f) of subsection 7 and any rules or regulations adopted by the city clerk pursuant to subsection 8. The city clerk shall not

prepare the rebuttal of the arguments required pursuant to paragraph (e) of subsection 7.

7. A committee appointed pursuant to this section:

- (a) Shall elect a chairman for the committee;
- (b) Shall meet and conduct its affairs as necessary to fulfill the requirements of this section;
- (c) May seek and consider comments from the general public;
- (d) Shall prepare an argument either advocating or opposing approval by the voters of the initiative, referendum or other question, based on whether the members were appointed to advocate or oppose approval by the voters of the initiative, referendum or other question;
- (e) Shall prepare a rebuttal to the argument prepared by the other committee appointed pursuant to this section;
- (f) Shall address in the argument and rebuttal prepared pursuant to paragraphs (d) and (e):

(1) The anticipated fiscal ~~[impact]~~ effect of the initiative, referendum or other question;

(2) The environmental impact of the initiative, referendum or other question; and

(3) The impact of the initiative, referendum or other question on the public health, safety and welfare; and

(g) Shall submit the argument and rebuttal prepared pursuant to paragraphs (d), (e) and (f) to the city clerk not later than the date prescribed by the city clerk pursuant to subsection 8.

8. The city clerk of a city whose population is 10,000 or more shall provide, by rule or regulation:

(a) The maximum permissible length of an argument or rebuttal prepared pursuant to this section; and

(b) The date by which an argument or rebuttal prepared pursuant to this section must be submitted by the committee to the city clerk.

9. Upon receipt of an argument or rebuttal prepared pursuant to this section, the city clerk:

(a) May consult with persons who are generally recognized by a national or statewide organization as having expertise in the field or area to which the initiative, referendum or other question pertains; and

(b) Shall reject each statement in the argument or rebuttal that he believes is libelous or factually inaccurate.

➡ Not later than 5 days after the city clerk rejects a statement pursuant to this subsection, the committee may appeal that rejection to the city attorney or other city officer appointed to hear the appeal by the city council. The city attorney or other city officer appointed to hear the appeal shall review the statement and the reasons for its rejection and may receive evidence, documentary or testimonial, to aid him in his decision. Not later than 3 business days after the appeal by the committee, the city attorney or other city officer appointed to hear the appeal shall issue his decision rejecting or



accepting the statement. The decision of the city attorney or other city officer appointed to hear the appeal is a final decision for the purposes of judicial review. If the decision of the city attorney or other city officer appointed to hear the appeal is challenged by filing a complaint in district court, the court shall set the matter for hearing not later than 3 days after the complaint is filed and shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings.

10. The city clerk shall place in the sample ballot provided to the registered voters of the city each argument and rebuttal prepared pursuant to this section, containing all statements that were not rejected pursuant to subsection 9. The city clerk may revise the language submitted by the committee so that it is clear, concise and suitable for incorporation in the sample ballot, but shall not alter the meaning or effect without the consent of the committee.

11. In a city whose population is less than 10,000:

(a) The council may appoint committees pursuant to this section.

(b) If the council appoints committees pursuant to this section, the city clerk shall provide for rules or regulations pursuant to subsection 8.

12. If a question is to be placed on the ballot by an entity described in paragraph (b) of subsection 1, the entity must provide a copy and explanation of the question to the city clerk at least 30 days earlier than the date required for the submission of such documents pursuant to subsection 1 of NRS 293.481. This subsection does not apply to a question if the date that the question must be submitted to the city clerk is governed by subsection 2 of NRS 293.481.

**Sec. 28. This act becomes effective on July 1, 2007.**

Assemblyman Conklin moved that the Assembly concur in the Senate Amendment No. 886 to Assembly Bill No. 604.

Remarks by Assemblyman Conklin.

Motion carried.

The following Senate amendment was read:

Amendment No. 987.

SUMMARY—Revises provisions governing ~~petitions for statewide initiatives and referenda~~ **elections**. (BDR 24-1396)

AN ACT relating to elections; **requiring the governing body of a city incorporated pursuant to general law in certain larger counties to adopt an ordinance to provide for a primary city election and general city election on the dates for state primary elections and state general elections**; requiring certain persons or groups of persons advocating the passage or defeat of certain initiatives or referenda to provide various information to the Secretary of State concerning campaign contributions, expenditures and expenses; requiring public hearings to be conducted concerning certain initiatives and referenda; requiring circulators of certain petitions to attach an affidavit to each document of the petition; requiring circulators of certain petitions to disclose their status as volunteer or paid

circulators; authorizing the Legislative Counsel to provide technical suggestions regarding certain initiatives and referenda; **revising the charters of certain cities to provide for primary city elections and general city elections on the dates for state primary elections and state general elections**; providing a civil penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Existing law provides that city primary and general elections must be held in odd-numbered years while state and other local primary and general elections must be held in even-numbered years. (NRS 293.12755, 293.175, 293C.115, 293C.140, 293C.145) Section 1.3 of this bill requires a city incorporated under general law in a county whose population is 400,000 or more (currently Clark County) to adopt an ordinance setting city elections in even-numbered years. Sections 22-46 of this bill also amend the charter of each city that is located in a county whose population is 400,000 or more to reflect this change in election dates. Cities affected are Boulder City, Henderson, Las Vegas, Mesquite and North Las Vegas.**

Chapter 294A of NRS governs campaign practices. NRS 294A.150 and 294A.220 require persons or groups of persons advocating the passage or defeat of a question on a ballot to submit reports to the Secretary of State on campaign contributions, expenditures and expenses. Section 3 of this bill creates a new section for persons and groups of persons advocating the passage or defeat of a constitutional amendment or a statewide measure proposed by an initiative or referendum and that have received or expended at least \$10,000 for that purpose. The provisions of this new section require such persons or groups to submit similar campaign contribution and expense reports to the Secretary of State on a different schedule and with certain additional information. Section 4 of this bill requires such persons and groups to appoint a resident agent who lives in Nevada, regardless of the amount of money they have received or expended. Section 5 of this bill requires such persons and groups to file an organizational statement with the Secretary of State, regardless of the amount of money they have received or expended. Section 6 of this bill requires such persons and groups who pay others to circulate petitions to disclose certain financial information to the Secretary of State. Section 13 of this bill provides that such persons and groups who violate section 3 are subject to civil penalties.

Chapter 295 of NRS governs petitions for statewide and local initiatives and referenda. Section 15 of this bill requires the Director of the Legislative Counsel Bureau to hold public hearings on statewide initiatives and referenda. Section 16 of this bill requires petition circulators to attach an affidavit to each document of a petition attesting to the veracity of each signature. Section 17 of this bill prohibits paying people to sign petitions. Section 18 of this bill requires petition circulators to disclose whether they are paid or volunteer circulators.

Existing law requires the Secretary of State to consult with the Fiscal Analysis Division of the Legislative Counsel Bureau regarding the possible financial effect on the State of any initiative or referendum. (NRS 295.015) Section 20 of this bill requires the Secretary of State also to consult with the Legislative Counsel regarding each initiative or referendum and authorizes the Legislative Counsel to make technical suggestions regarding the petition.

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

Section 1. NRS 293.4687 is hereby amended to read as follows:

293.4687 1. The Secretary of State shall maintain a website on the Internet for public information maintained, collected or compiled by the Secretary of State that relates to elections, which must include, without limitation:

(a) The Voters' Bill of Rights required to be posted on his Internet website pursuant to the provisions of NRS 293.2549;

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293.388; and

(c) All reports on campaign contributions and expenditures submitted to the Secretary of State pursuant to the provisions of NRS 294A.120, 294A.125, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362 ~~+~~ **and section 3 of this act.**

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by the Secretary of State pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by a county clerk or city clerk, the Secretary of State may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

**Sec. 1.3. NRS 293C.115 is hereby amended to read as follows:**

293C.115 1. ~~(The)~~ **Except as otherwise provided in subsection 2, the** governing body of a city incorporated pursuant to general law may by ordinance provide for a primary city election and a general city election on:

(a) The dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS; or

(b) The dates set forth for primary city elections and general city elections pursuant to the provisions of this chapter.

2. **The governing body of a city incorporated pursuant to general law in a county whose population is 400,000 or more shall by ordinance provide for a primary city election and a general city election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.**

3. If a governing body of a city adopts an ordinance pursuant to paragraph (a) of subsection 1 ~~1.1~~ or subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165, and in NRS 293.175, 293.177, 293.345 and 293.368 apply for purposes of conducting the primary city elections and general city elections of the city.

~~3.1~~ 4. If a governing body of a city adopts an ordinance pursuant to subsection 1 ~~1.1~~ or is required to adopt an ordinance pursuant to subsection 2:

(a) The term of office of any elected city official may not be shortened as a result of the ordinance; and

(b) Each elected city official holds office until the end of his term and until his successor has been elected and qualified.

**Sec. 1.7. NRS 293C.291 is hereby amended to read as follows:**

293C.291 If a candidate whose name appears on the ballot at a primary city election or general city election dies after the applicable date set forth in:

1. NRS 293C.370; or

2. NRS 293.368, if the governing body of the city has adopted an ordinance pursuant to paragraph (a) of subsection 1 or subsection 2 of NRS 293C.115,

➡ but before the time of the closing of the polls on the day of the election, the city clerk shall post a notice of the candidate's death at each polling place where the candidate's name will appear on the ballot for the primary city election or general city election.

Sec. 2. Chapter 294A of NRS is hereby amended by adding thereto the sections set forth as sections 3 to 6, inclusive, of this act.

Sec. 3. *1. Every person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, including, without limitation, the initiation or circulation thereof, and who receives or expends money in an amount in excess of \$10,000 for such advocacy shall, not later than the dates listed in subsection 2, report:*

*(a) Each campaign contribution in excess of \$100 received during each period described in subsection 2;*

*(b) Contributions received during each period described in subsection 2 from a contributor which cumulatively exceed \$100;*

*(c) Each expenditure in excess of \$100 the person or group of persons makes during each period described in subsection 2; and*

*(d) The total amount of money the person or group of persons has at the beginning of each period described in subsection 2, accounting for all contributions received and expenditures made during each previous period.*

*2. Every person or group of persons required to report pursuant to subsection 1 shall file that report with the Secretary of State:*

*(a) For the period beginning on the first day a copy of the petition may be filed with the Secretary of State before it is circulated for signatures pursuant to Section 1 or Section 2 of Article 19 of the Nevada Constitution,*

*as applicable, and ending on the following March 31, not later than April 15;*

*(b) For the period beginning on April 1 and ending on July 31, not later than August 15;*

*(c) For the period beginning on August 1 and ending on September 30, not later than October 15; and*

*(d) For the period beginning on October 1 and ending on December 31, not later than the following January 15.*

*3. The name and address of the contributor and the date on which the contribution was received must be included on each report for each contribution in excess of \$100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the applicable reporting period.*

*4. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in each report.*

*5. Each report required pursuant to this section must:*

*(a) Be on the form designed and provided by the Secretary of State pursuant to NRS 294A.373; and*

*(b) Be signed by the person or a representative of the group of persons under penalty of perjury.*

*6. A person or group of persons may mail or transmit each report to the Secretary of State by certified mail, regular mail, facsimile machine or electronic means or may deliver the report personally.*

*7. A report shall be deemed to be filed with the Secretary of State:*

*(a) On the date that it was mailed if it was sent by certified mail; or*

*(b) On the date that it was received by the Secretary of State if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.*

*Sec. 4. Each person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum shall appoint and keep within this State a resident agent who must be a natural person who resides in this State.*

*Sec. 5. 1. Each person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, before engaging in any such advocacy in this State, shall file a statement of organization with the Secretary of State as provided in subsection 2.*

*2. Each statement of organization must include:*

*(a) The name of the person or group of persons;*

*(b) The purpose for which the person or group of persons is organized;*

*(c) The names and addresses of any officers of the person or group of persons;*

*(d) If the person or group of persons is affiliated with or is retained by any other person or group for the purpose of advocating the passage or defeat of a constitutional amendment or statewide measure proposed by initiative or referendum, the name and address of each such other person or group; and*

*(e) The name, address and telephone number of the resident agent of the person or group of persons.*

*3. A person or group of persons which has filed a statement of organization pursuant to this section shall file an amended statement with the Secretary of State within 30 days of any changes to the information required pursuant to subsection 2.*

*Sec. 6. 1. Each person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum that provides compensation to persons to circulate petitions shall report to the Secretary of State:*

*(a) The number of persons to whom such compensation is provided;*

*(b) The least amount of such compensation that is provided and the greatest amount of such compensation that is provided; and*

*(c) The total amount of compensation provided.*

*2. The Secretary of State shall make public any information received pursuant to this section.*

*Sec. 7. NRS 294A.150 is hereby amended to read as follows:*

*294A.150 1. ~~[Every]~~ Except as otherwise provided in section 3 of this act, every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election [and every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of \$10,000 to support such initiation or circulation] shall, not later than January 15 of each year that the provisions of this subsection apply to the person or group of persons, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of \$100 received during that period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury. The provisions of this subsection apply to the person or group of persons:*

*(a) Each year in which an election or city election is held for each question for which the person or group advocates passage or defeat ; ~~for each year in which a person or group receives or expends money in excess of \$10,000 to support the initiation or circulation of a petition for a~~*

~~constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum;~~ and

(b) The year after each year described in paragraph (a).

2. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election, for the period from 11 days before the general election or general city election through June 30 of that year,

↪ report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group under penalty of perjury.

3. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of \$100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

4. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after

July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. ~~[Every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of \$10,000 to support such initiation or circulation shall comply with the requirements of this subsection.]~~ A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

➡ report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

5. Except as otherwise provided in subsection 6, every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:

(a) Seven days before the special election, for the period from the date that the question qualified for the ballot through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➡ report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

6. Every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a special election to determine whether a public officer will be recalled shall report each of the contributions received on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group under penalty of perjury, 30 days after:



(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

7. The reports required pursuant to this section must be filed with:

(a) If the question is submitted to the voters of one county, the county clerk of that county;

(b) If the question is submitted to the voters of one city, the city clerk of that city; or

(c) If the question is submitted to the voters of more than one county or city, the Secretary of State.

8. A person may mail or transmit his report to the appropriate officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. If the person or group of persons is advocating passage or defeat of a group of questions, ~~for is receiving or expending money to support a group of petitions for constitutional amendments, a group of petitions for statewide measures proposed by initiative or referendum or a group of petitions for both constitutional amendments and statewide measures proposed by initiative or referendum,~~ the reports must be itemized by question or petition.

10. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.

Sec. 8. NRS 294A.220 is hereby amended to read as follows:

294A.220 1. ~~Every~~ ***Except as otherwise provided in section 3 of this act, every*** person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election ~~and every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of \$10,000 to support such initiation or circulation~~ shall, not later than January 15 of each year that the provisions of this subsection apply to the person or group of persons, for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$100 on the form designed and provided by the

Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury. The provisions of this subsection apply to the person or group of persons:

(a) Each year in which an election or city election is held for a question for which the person or group advocates passage or defeat ; ~~for each year in which a person or group of persons receives or expends money in excess of \$10,000 to support the initiation or circulation of a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum;~~ and

(b) The year after each year described in paragraph (a).

2. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after January 1 and before the July 1 immediately following that January 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election, for the period from 11 days before the general election or general city election through the June 30 immediately preceding that July 15,

➤ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group under penalty of perjury.

3. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. If a question

is on the ballot at a general election or general city election held on or after July 1 and before the January 1 immediately following that July 1, every person or group of persons organized formally or informally who advocates the passage or defeat of the question or a group of questions that includes the question shall comply with the requirements of this subsection. ~~[Every person or group of persons who initiates or circulates a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or a referendum and who receives or expends money in an amount in excess of \$10,000 to support such initiation or circulation shall comply with the requirements of this subsection.]~~ A person or group of persons described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

➡ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

4. Except as otherwise provided in subsection 5, every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:

(a) Seven days before the special election, for the period from the date the question qualified for the ballot through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➡ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the group under penalty of perjury.

5. Every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at a special election to determine whether a public officer will be recalled shall list each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of \$100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the

person or a representative of the group under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.

7. The reports required pursuant to this section must be filed with:

(a) If the question is submitted to the voters of one county, the county clerk of that county;

(b) If the question is submitted to the voters of one city, the city clerk of that city; or

(c) If the question is submitted to the voters of more than one county or city, the Secretary of State.

8. If an expenditure is made on behalf of a group of questions, ~~for a group of petitions for constitutional amendments, a group of petitions for statewide measures proposed by initiative or referendum or a group of petitions for both constitutional amendments and statewide measures proposed by initiative or referendum,~~ the reports must be itemized by question or petition. A person may mail or transmit his report to the appropriate filing officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the filing officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the filing officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.

Sec. 9. NRS 294A.365 is hereby amended to read as follows:

294A.365 1. Each report of expenditures required pursuant to NRS 294A.210, 294A.220 and 294A.280 **and section 3 of this act** must consist of a list of each expenditure in excess of \$100 that was made during the periods for reporting. Each report of expenses required pursuant to NRS 294A.125 and 294A.200 must consist of a list of each expense in excess of \$100 that was incurred during the periods for reporting. The list in each report must state the category and amount of the expense or expenditure and the date on which the expense was incurred or the expenditure was made.

2. The categories of expense or expenditure for use on the report of expenses or expenditures are:

- (a) Office expenses;
- (b) Expenses related to volunteers;
- (c) Expenses related to travel;
- (d) Expenses related to advertising;
- (e) Expenses related to paid staff;
- (f) Expenses related to consultants;
- (g) Expenses related to polling;
- (h) Expenses related to special events;
- (i) Except as otherwise provided in NRS 294A.362, goods and services provided in kind for which money would otherwise have been paid; and
- (j) Other miscellaneous expenses.

3. Each report of expenses or expenditures described in subsection 1 must list the disposition of any unspent campaign contributions using the categories set forth in subsection 2 of NRS 294A.160.

Sec. 10. NRS 294A.373 is hereby amended to read as follows:

294A.373 1. The Secretary of State shall design a single form to be used for all reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362 ~~and~~ *and section 3 of this act.*

2. The form designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. Upon request, the Secretary of State shall provide a copy of the form designed pursuant to this section to each person, committee, political party and group that is required to file a report described in subsection 1.

4. The Secretary of State must obtain the advice and consent of the Legislative Commission before providing a copy of a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party or group that is required to use the form.

Sec. 11. NRS 294A.390 is hereby amended to read as follows:

294A.390 The officer from whom a candidate or entity requests a form for:

- 1. A declaration of candidacy;
- 2. An acceptance of candidacy;
- 3. The registration of a committee for political action pursuant to NRS 294A.230 or a committee for the recall of a public officer pursuant to NRS 294A.250; or
- 4. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 or 294A.360, *or section 3 of this act,*

↪ shall furnish the candidate with the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220,

294A.270, 294A.280 or 294A.360 *or section 3 of this act* relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420 must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

Sec. 12. NRS 294A.400 is hereby amended to read as follows:

294A.400 The Secretary of State shall, within 30 days after receipt of the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270 and 294A.280, *and section 3 of this act*, prepare and make available for public inspection a compilation of:

1. The total campaign contributions, the contributions which are in excess of \$100 and the total campaign expenses of each of the candidates from whom reports of those contributions and expenses are required.

2. The total amount of loans to a candidate guaranteed by a third party, the total amount of loans made to a candidate that have been forgiven and the total amount of written commitments for contributions received by a candidate.

3. The contributions made to a committee for the recall of a public officer in excess of \$100.

4. The expenditures exceeding \$100 made by a:

(a) Person on behalf of a candidate other than himself.  
(b) Person or group of persons on behalf of or against a question or group of questions on the ballot.

(c) Group of persons advocating the election or defeat of a candidate.

(d) Committee for the recall of a public officer.

5. The contributions in excess of \$100 made to:

(a) A person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group.

(b) A person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot.

(c) A committee for political action, political party or committee sponsored by a political party which makes an expenditure on behalf of a candidate or group of candidates.

Sec. 13. NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280 or 294A.360 *or section 3 of this act* has not filed a report or form for registration pursuant to the applicable provisions of those sections, the

Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.300, 294A.310, 294A.320 or 294A.360 **or section 3 of this act** is subject to a civil penalty of not more than \$5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, \$25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, \$50 for each day the report is late.

(c) If the report is more than 15 days late, \$100 for each day the report is late.

↪ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of \$100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

Sec. 14. Chapter 295 of NRS is hereby amended by adding thereto the sections set forth as sections 15 to 18, inclusive, of this act.

Sec. 15. **1. The Director of the Legislative Counsel Bureau shall hold a public hearing on each petition for initiative or referendum that has been filed with the Secretary of State.**

**2. Each public hearing required pursuant to this section must be held not later than 10 days nor more than 20 days before the general election at which the initiative or referendum is submitted for popular vote.**

3. *The Legislative Counsel Bureau shall provide such staff as is necessary to provide appropriate research and analysis of the initiative or referendum at each public hearing required pursuant to this section.*

4. *Each public hearing required pursuant to this section must be an opportunity for public discussion of:*

(a) *Technical matters relating to the petition, including, without limitation, compliance with the requirements of NRS 295.009; and*

(b) *The substantive content of the initiative or referendum.*

Sec. 16. *A petition for initiative or referendum may consist of more than one document. Each document of a petition must have attached to it when submitted an affidavit executed by the circulator thereof stating:*

1. *That he personally circulated the document;*

2. *The number of signatures thereon;*

3. *That all the signatures were affixed in his presence;*

4. *That he believes the signatures to be the genuine signatures of the persons whose names they purport to be; and*

5. *That each signer had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.*

Sec. 17. *A person shall not give compensation of any kind to any person in exchange for signing a petition for initiative or referendum.*

Sec. 18. *Each person circulating a petition for initiative or referendum who:*

1. *Is not receiving or will not receive any compensation for circulating the petition shall disclose to signers of the petition his status as a volunteer;*

2. *Is receiving or will receive any compensation for circulating the petition shall disclose to signers of the petition his status as a paid circulator.*

Sec. 19. (Deleted by amendment.)

Sec. 20. NRS 295.015 is hereby amended to read as follows:

295.015 1. Before a petition for initiative or referendum may be presented to the registered voters for their signatures, a copy of the petition for initiative or referendum, including the description required pursuant to NRS 295.009, must be placed on file with the Secretary of State.

2. Upon receipt of a petition for initiative or referendum placed on file pursuant to subsection 1 ~~[, the]~~ :

(a) *The* Secretary of State shall consult with the Fiscal Analysis Division of the Legislative Counsel Bureau to determine if the initiative or referendum may have any anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters. If the Fiscal Analysis Division determines that the initiative or referendum may have an anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters, the Division must prepare a fiscal note that includes an explanation of any such effect.



*(b) The Secretary of State shall consult with the Legislative Counsel regarding the petition for initiative or referendum. The Legislative Counsel may provide technical suggestions regarding the petition for initiative or referendum.*

3. Not later than 10 business days after the Secretary of State receives a petition for initiative or referendum filed pursuant to subsection 1, the Secretary of State shall post a copy of the petition, including the description required pursuant to NRS 295.009, ~~and~~ any fiscal note prepared pursuant to subsection 2 ~~+~~ *and any suggestions made by the Legislative Counsel pursuant to subsection 2*, on his Internet website.

**Sec. 21. NRS 267.110 is hereby amended to read as follows:**

267.110 1. Any city having adopted a charter pursuant to the provisions of NRS 267.010 to 267.140, inclusive, has pursuant to the charter:

(a) All of the powers enumerated in the general laws of the State for the incorporation of cities.

(b) Such other powers necessary and not in conflict with the Constitution and laws of the State of Nevada to carry out the commission form of government.

2. The charter, when submitted, must:

(a) Fix the number of commissioners, their terms of office and their duties and compensation.

(b) Provide for all necessary appointive and elective officers for the form of government therein provided, and fix their salaries and emoluments, duties and powers.

(c) Fix, in accordance with the provisions of NRS 293C.140 and 293C.175 or with the provisions of NRS 293C.145, or with the provisions of paragraph (a) of subsection 1 or subsection 2 of NRS 293C.115, the time for the first and subsequent elections for all elective officers. After the first election and the qualification of the officers who were elected, the old officers and all boards or offices and their emoluments must be abolished.

**Sec. 22. Section 4 of the Charter of Boulder City is hereby amended to read as follows:**

Section 4. Number; selection and term; recall.

1. The City Council shall have four Councilmen and a Mayor elected from the City at large in the manner provided in Article IX ~~, for terms of four years and until their successors have been elected and have taken office as provided in section 16, subject to recall as provided in section 111.5.~~ No Councilman shall represent any particular constituency or district of the City, and each Councilman shall represent the entire City. (Amd. 2; 6-4-1991; Add. 17; Amd. 1; 11-5-1996)

2. (Repealed by Amd. 1; 6-4-1991)

3. Except as otherwise provided in section 96, all Councilmen and the Mayor shall serve for 4 years, subject to recall as provided in section 111.5.

**Sec. 23. Section 16 of the Charter of Boulder City is hereby amended to read as follows:**

Section 16. Induction of Council into office; meetings of Council.

1. The City Council shall meet within ~~ten~~ **10** days after each ~~city~~ primary election and each ~~city~~ general election specified in Article IX, ~~to~~ to canvass the returns and to declare the results. All newly elected or reelected Mayor or Council members ~~shall~~ **must** be inducted into office at the next regular Council meeting following certification of the applicable ~~city~~ general election results. Immediately following such induction, the Mayor pro tem ~~shall~~ **must** be designated as provided in section 7. Thereafter, the Council shall meet regularly at such times as it shall set by resolution from time to time, but not less frequently than once each month. (Add. 13; Amd. 1; 6-2-1987; Amd. 2; 6-4-1991; Add. 17; Amd. 1; 11-5-1996; Add. 24; Amd. 1; 6-3-2003)

A. (Add. 3; Amd. 2; 5-2-1967; Repealed by Add. 15; Amd. 1; 6-4-1991)

2. It is the intent of this Charter that deliberations and actions of the Council be conducted openly. All meetings of the City Council ~~shall~~ **must** be in accordance with chapter 241 of ~~the Nevada Revised Statutes.~~ **NRS.** (Add. 10; Amd. 1; 6-2-1981)

3. Any emergency meeting of the City Council, as defined by chapter 241 ~~shall~~ **of NRS, must** be as provided therein, and in addition:

(a) An emergency meeting may be called by the Mayor or upon written notice issued by a majority of the Council.

(b) Prior notice of such an emergency meeting ~~shall~~ **must** be given to all members of the City Council. (Add. 10; Amd. 1; 6-2-1981)

**Sec. 24. Section 92 of the Charter of Boulder City is hereby amended to read as follows:**

Section 92. Public parks, recreation areas, parking.

1. All public parks, public recreation areas and publicly owned off-street parking areas in existence at the time of incorporation, unless under private lease, must not be sold, leased or zoned for any other use without approval of the majority of the voters voting at a special election ~~for primary or general~~, **a primary municipal and state** election, or **a general municipal and** state election.

2. A special election may be held only if the City Council determines, by a unanimous vote, that an emergency exists. The determination made by the City Council is conclusive unless it is shown that the City Council acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the City Council must be commenced within 15 days after the City Council's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the City Council to prevent or mitigate a substantial financial loss to the City or to enable the City Council to provide an essential service to the residents of the City. (Add. 16; Amd. 2; 1-1-1994)

(A—Ch. 345, Stats. 1993 p. 1096)

**Sec. 25. Section 96 of the Charter of Boulder City is hereby amended to read as follows:**

Section 96. Conduct of ~~{city}~~ elections.

1. All city elections must be nonpartisan in character and must be conducted in accordance with the provisions of the general election laws of the State of Nevada and any ordinance regulations as adopted by the City Council which are consistent with law and this Charter. (1959 Charter)

2. ~~{Add}~~ **Except as otherwise provided in subsections 3 and 4, all** full terms of office in the City Council are ~~{four years, and}~~ **4 years**. Council members must be elected at large without regard to precinct residency.

3. Two ~~{full-term}~~ Council members and the Mayor are to be elected ~~{in each year immediately preceding a federal presidential election, and two full-term}~~ **on the first Tuesday after the first Monday in June 2011 at a general municipal election to be held for that purpose. The two Council members and the Mayor shall hold office until their successors have been elected and qualified pursuant to subsection 5.**

4. **Two** Council members are to be elected ~~{in each year immediately following a federal presidential election.}~~ **on the first Tuesday after the first Monday in June 2009 at a general municipal election to be held for that purpose. The two Council members shall hold office until their successors have been elected and qualified pursuant to subsection 6.**

5. **Two Council members and the Mayor are to be elected on the first Tuesday after the first Monday in November 2014 and at each successive interval of 4 years thereafter. The two Council members and the Mayor shall hold office for a period of 4 years and until their successors have been elected and qualified.**

6. **Two Council members are to be elected on the first Tuesday after the first Monday in November 2012 and at each successive interval of 4 years thereafter. The two Council members shall hold office for a period of 4 years and until their successors have been elected and qualified.**

7. In each election, the candidates receiving the greatest number of votes must be declared elected to the vacant ~~{full-term}~~ positions. (Add. 17; Amd. 1; 11-5-1996)

(a) In the event one or more ~~{two-year}~~ **2-year** term positions on the Council will be available at the time of a municipal election as provided in section 12, candidates must file specifically for such ~~{position(s).}~~ **positions**. Candidates receiving the greatest respective number of votes must be declared elected to the respective available ~~{two-year}~~ **2-year** positions. (Add. 15; Amd. 2; 6-4-1991)

~~{3. A city}~~

8. **A** primary election must be held on the first Tuesday after the first Monday in April of each odd-numbered year, and a city general election must be held on the first Tuesday after the first Monday in June of each odd-numbered year.

(a) A primary election must not be held if no more than double the number of Council members to be elected file as candidates. A primary election must not be held for the office of Mayor if no more than two

candidates file for that position. The primary election must be held for the purpose of eliminating candidates in excess of a figure double the number of Council members to be elected. (Add. 17; Amd. 1; 11-5-1996)

(b) If, in the primary city election, a candidate receives votes equal to a majority of voters casting ballots in that election, he shall be considered elected to one of the vacancies and his name ~~shall~~ **must** not be placed on the ballot for the general city election. (Add. 10; Amd. 7; 6-2-1981)

(c) In each primary and general election, voters ~~shall be~~ **are** entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the city elections. (Add. 11; Amd. 5; 6-7-1983)

~~4.1~~ **2.** The conduct of all municipal elections ~~shall be~~ **is** under the control of the City Council, which shall adopt by ordinance all regulations which it considers desirable and consistent with law and this Charter. Nothing in this Charter shall be construed as to deny or abridge the power of the City Council to provide for supplemental regulations for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud. (Add. 24; Amd. 1; 6-3-2003)

**Sec. 26. Section 96 of the Charter of Boulder City is hereby amended to read as follows:**

Section 96. Conduct of elections.

1. All city elections must be nonpartisan in character and must be conducted in accordance with the provisions of the general election laws of the State of Nevada and any ordinance regulations as adopted by the City Council which are consistent with law and this Charter. (1959 Charter)

2. Except as otherwise provided in subsections 3 and 4, all full terms of office in the City Council are 4 years. Council members must be elected at large without regard to precinct residency.

3. Two Council members and the Mayor are to be elected on the first Tuesday after the first Monday in June 2011 at a general municipal election to be held for that purpose. The two Council members and the Mayor shall hold office until their successors have been elected and qualified pursuant to subsection 5.

4. Two Council members are to be elected on the first Tuesday after the first Monday in June 2009 at a general municipal election to be held for that purpose. The two Council members shall hold office until their successors have been elected and qualified pursuant to subsection 6.

5. Two Council members and the Mayor are to be elected on the first Tuesday after the first Monday in November 2014 and at each successive interval of 4 years thereafter. The two Council members and the Mayor shall hold office for a period of 4 years and until their successors have been elected and qualified.

6. Two Council members are to be elected on the first Tuesday after the first Monday in November 2012 and at each successive interval of 4 years thereafter. The two Council members shall hold office for a period of 4 years and until their successors have been elected and qualified.

7. In each election, the candidates receiving the greatest number of votes must be declared elected to the vacant positions. (Add. 17; Amd. 1; 11-5-1996)

(a) In the event one or more 2-year term positions on the Council will be available at the time of a municipal election as provided in section 12, candidates must file specifically for such positions. Candidates receiving the greatest respective number of votes must be declared elected to the respective available 2-year positions. (Add. 15; Amd. 2; 6-4-1991)

8. A primary election must be held on the ~~first Tuesday after the first Monday in April~~ twelfth Tuesday before the general election of each ~~odd-numbered~~ even-numbered year, and a ~~city~~ general election must be held on the first Tuesday after the first Monday in ~~June~~ November of each ~~odd-numbered~~ even-numbered year.

(a) A primary election must not be held if no more than double the number of Council members to be elected file as candidates. A primary election must not be held for the office of Mayor if no more than two candidates file for that position. The primary election must be held for the purpose of eliminating candidates in excess of a figure double the number of Council members to be elected. (Add. 17; Amd. 1; 11-5-1996)

(b) If, in the primary ~~city~~ election, a candidate receives votes equal to a majority of voters casting ballots in that election, he shall be considered elected to one of the vacancies and his name must not be placed on the ballot for the general ~~city~~ election. (Add. 10; Amd. 7; 6-2-1981)

(c) In each primary and general election, voters are entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the city elections. (Add. 11; Amd. 5; 6-7-1983)

9. The conduct of all municipal elections is under the control of the City Council, which shall adopt by ordinance all regulations which it considers desirable and consistent with law and this Charter. Nothing in this Charter shall be construed as to deny or abridge the power of the City Council to provide for supplemental regulations for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud. (Add. 24; Amd. 1; 6-3-2003)

**Sec. 27. Section 100 of the Charter of Boulder City is hereby amended to read as follows:**

Section 100. Registered voters' power of initiative and referendum concerning city ordinances.

The registered voters of a city may:

1. Propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without change in substance, ~~to~~ may adopt or reject it at a primary ~~for general~~ municipal and state election or ~~primary or~~ general municipal and state election.

2. Require reconsideration by the Council of any adopted ordinance ~~and~~ and, if the Council fails to repeal an ordinance so considered, ~~to~~ may approve or reject it ~~as~~ at a primary ~~for general~~ municipal and state election

or ~~[primary or]~~ general **municipal and** state election. (Add. 16; Amd. 2; 1-1-1994)

(A—Ch. 345, Stats. 1993 p. 1097)

**Sec. 28. Section 102 of the Charter of Boulder City is hereby amended to read as follows:**

Section 102. Results of election.

1. If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the results of the election and must be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes prevails to the extent of the conflict.

2. If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the results of the election.

3. No initiative ordinance voted upon by the registered voters, or an initiative ordinance in substantially the same form as one voted upon by the people, may again be placed on the ballot until the next primary ~~for general~~ municipal **and state** election or ~~[primary or]~~ general **municipal and** state election. (Add. 16; Amd. 2; 1-1-1994)

(A—Ch. 345, Stats. 1993 p. 1097)

**Sec. 29. Section 119 of the Charter of Boulder City is hereby amended to read as follows:**

Section 119. Amending the Charter.

1. An amendment to this Charter:

A. May be made by the Legislature directly by the use of mandatory specific wording or indirectly by the use of wording allowing flexibility in expressing the required change.

(1) If a statute is enacted which directly amends this Charter, such an amendment is not subject to public approval as provided in subsection B and must be included in the Charter and identified as having been amended by the particular statute involved.

(2) If a statute is enacted which requires that this Charter be amended but does not require the specific wording to be used, the City Council shall propose a suitable amendment to be submitted to the registered voters of the City as provided in subsection B. If such a proposed amendment is not adopted by the voters, it must be redrafted and resubmitted to the voters at one or more general city ~~[elections or general]~~ **and** state elections until an amendment is adopted.

B. May be proposed by the City Council and submitted to the registered voters of the City at a general city ~~[election or general]~~ **and** state election.

C. May be proposed by a petition signed by registered voters of the City equal in number to 15 percent or more of the voters who voted at the latest preceding general city election and submitted to registered voters of the City at the next general city ~~[election or general]~~ **and** state election.

2. The City Attorney shall draft any amendment proposed pursuant to subsections A(2) or B, or if such a proposed amendment has been previously drafted, the City Attorney shall review the previous draft and recommend to the Council any suggested changes or corrections.

3. The City Attorney shall, upon request, review any amendment intended to be proposed by petition pursuant to subsection C, make only such corrections as are agreed to by the proposers and report to the City Council his analysis of the significance and potential effects of the proposed amendment.

4. A petition for amendment must be in the form specified by state law for city initiative petitions, and must be filed with the City Clerk not later than 6 months before the date of the general city ~~election or general~~ and state election at which the proposed amendment is to be submitted to the voters of the City.

5. When an amendment is adopted by the registered voters of the City, the City Clerk shall, within 30 days thereafter, transmit a certified copy of the amendment to the Legislative Counsel.

6. Any amendment to the Charter proposed ~~under~~ pursuant to the provisions of this section ~~shall~~ must be adopted by a simple majority of the voters casting ballots on that question at two consecutive general elections before any such amendment ~~shall~~ may become effective. (Add. 25; Amd. 1; 6-3-2003)

**Sec. 30. Section 138 of the Charter of Boulder City is hereby amended to read as follows:**

Section 138. Sale of public utilities; proviso.

1. No public utility of any kind, after having been acquired by the City, may thereafter be sold or leased by the City, unless the proposition for the sale or lease has been submitted to the electors of the City at a special election ~~for primary or general~~, a primary municipal and state election, ~~or primary or a general~~ municipal and state election. After a majority vote of those electors in favor of the sale, the sale may not be made except after 30 days' published notice thereof, except that the provisions of this section do not apply to a sale by the Council of parts, equipment, trucks, engines and tools, which have become obsolete or worn out, any of which equipment may be sold by the Council in the regular course of business.

2. A special election may be held only if the City Council determines, by a unanimous vote, that an emergency exists. The determination made by the City Council is conclusive unless it is shown that the City Council acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the City Council must be commenced within 15 days after the City Council's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the City Council to prevent or mitigate a substantial financial loss to the City or to enable the City Council to provide

an essential service to the residents of the City. (1959 Charter) (Add. 16; Amd. 2; 1-1-1994)

(A—Ch. 345, Stats. 1993 p. 1099)

**Sec. 31. Section 143 of the Charter of Boulder City is hereby amended to read as follows:**

Section 143. Expenditures from Capital Improvement Fund.

1. All expenditures from the Capital Improvement Fund must be approved by a simple majority of the votes cast by the registered voters of the City on a proposition placed before them in a special election ~~for primary or general~~, a primary municipal and state election, ~~or [primary or] a general municipal and~~ state election.

2. A special election may be held only if the City Council determines, by a unanimous vote, that an emergency exists. The determination made by the City Council is conclusive unless it is shown that the City Council acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the City Council must be commenced within 15 days after the City Council's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the City Council to prevent or mitigate a substantial financial loss to the City or to enable the City Council to provide an essential service to the residents of the City. (Add. 7; Amd. 5; 6-3-1975; Add. 16; Amd. 2; 1-1-1994)

**Sec. 32. Section 2.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 596, Statutes of Nevada 1995, at page 2206, is hereby amended to read as follows:**

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Councilmen and the Mayor.

2. The Mayor must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the City.

3. Each Councilman must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the ward which he represents.

(c) A resident of the ward which he represents for at least 30 days immediately preceding the last day for filing a declaration of candidacy for the office, except that changes in ward boundaries pursuant to the provisions of section 1.040 do not affect the right of any elected Councilman to continue in office for the term for which he was elected.



4. All Councilmen, including the Mayor, must be voted upon by the registered voters of the City at large and shall serve for terms of 4 years ~~or~~, except as otherwise provided in section 5.020.

5. The Mayor and Councilmen are entitled to receive a salary in an amount fixed by the City Council. The City Council shall not adopt an ordinance which increases or decreases the salary of the Mayor or the Councilmen during the term for which they have been elected or appointed.

**Sec. 33. Section 5.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 637, Statutes of Nevada 1999, at page 3565, is hereby amended to read as follows:**

Sec. 5.010 Primary election.

1. A primary election must be held on the twelfth Tuesday ~~after the first Monday in April of each odd-numbered year,~~ before the general election in November 2012, and at each successive interval of 2 years thereafter, at which time there must be nominated candidates for offices to be voted for at the next general ~~municipal~~ election.

2. A candidate for any office to be voted for at any primary ~~municipal~~ election must file a declaration of candidacy as provided by the election laws of this State.

3. All candidates for elective office must be voted upon by the registered voters of the City at large.

4. If in the primary election no candidate receives a majority of votes cast in that election for the office for which he is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general election. If in the primary election, regardless of the number of candidates for an office, one candidate receives a majority of votes cast in that election for the office for which he is a candidate, he must be declared elected and no general election need be held for that office.

**Sec. 34. Section 5.020 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 209, Statutes of Nevada 2001, at page 971, is hereby amended to read as follows:**

Sec. 5.020 General ~~municipal election.~~ elections.

1. ~~[A general election must be held in the City on]~~ On the first Tuesday after the first Monday in June ~~[of each odd-numbered year and on the same day every 2 years thereafter, at which time the registered voters of the City shall elect city officers to fill the available elective positions.]~~

~~2. All candidates for the office of Mayor, Councilman and Municipal Judge must be voted upon by the registered voters of the City at large. The term of office for members of the City Council and the Mayor is 4 years. Except as otherwise provided in subsection 3 of section 4.015 of this Charter, the term of office for a Municipal Judge is 6 years.]~~ 2009, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Mayor and a Councilman from the Third Ward,

both of whom will hold office until their successors have been elected and qualified pursuant to subsection 7.

2. On the first Tuesday after the first Monday in June 2007, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, Councilmen from the First, Second and Fourth Wards, all of whom will hold office until their successors have been elected and qualified. On the first Tuesday after the first Monday in June 2011, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, Councilmen from the First, Second and Fourth Wards, all of whom will hold office until their successors have been elected and qualified pursuant to subsection 6.

3. On the first Tuesday after the first Monday in June ~~{2001 and every 6 years thereafter,}~~ 2007, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 1 who will hold office until his successor has been elected and qualified. On the first Tuesday after the first Monday in November 2012, there must be elected by the qualified voters of the City, at a general election held for that purpose, a Municipal Judge for Department 1 who will hold office until his successor has been elected and qualified pursuant to subsection 8.

4. On the first Tuesday after the first Monday in June ~~{2003 and every 6 years thereafter,}~~ 2009, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 2 who will hold office until his successor has been elected and qualified. On the first Tuesday after the first Monday in November 2012, there must be elected by the qualified voters of the City, at a general election held for that purpose, a Municipal Judge for Department 2, who will hold office until his successor has been elected and qualified pursuant to subsection 9.

5. On the first Tuesday after the first Monday in June ~~{2005 and every 6 years thereafter,}~~ 2011, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 3 who will hold office until his successor has been elected and qualified. pursuant to subsection 10.

6. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years thereafter, there must be elected by the qualified voters of the City, at the general election, Councilmen from the First, Second and Fourth Wards, all of whom will hold office until their successors have been elected and qualified.

7. On the first Tuesday after the first Monday in November 2012, and at each successive interval of 4 years thereafter, there must be elected by the qualified voters of the City, at the general election, a Mayor and a Councilman from the Third Ward, both of whom will hold office until their successors have been elected and qualified.

8. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 6 years thereafter, there must be elected by the qualified voters of the City, at the general election, a Municipal Judge for Department 1 who shall hold office until his successor has been elected and qualified.

9. On the first Tuesday after the first Monday in November 2016, and at each successive interval of 6 years thereafter, there must be elected by the qualified voters of the City, at the general election, a Municipal Judge for Department 2 who will hold office until his successor has been elected and qualified.

10. On the first Tuesday after the first Monday in November 2012, and at each successive interval of 6 years thereafter, there must be elected by the qualified voters of the City, at the general election, a Municipal Judge for Department 3 who will hold office until his successor has been elected and qualified.

11. All candidates for the offices of Mayor, Councilman and Municipal Judge must be voted upon by the registered voters of the City at large. Except as otherwise provided in subsections 1 and 2, the term of office for a member of the City Council and the Mayor is 4 years. Except as otherwise provided in subsections 3, 4 and 5 and subsection 3 of section 4.015, the term of office for a Municipal Judge is 6 years.

**Sec. 35. Section 1.140 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 6, Statutes of Nevada 2001, at page 10, is hereby amended to read as follows:**

Sec. 1.140 Elective offices.

1. The elective officers of the City consist of:

- (a) A Mayor.
- (b) One Councilman from each ward.
- (c) Municipal Judges.

2. ~~The~~ Except as otherwise provided in section 5.010, the terms of office of the Mayor and Councilmen are 4 years.

3. Except as otherwise provided in subsection 3 of section 4.010 ~~for this Charter,~~ or section 5.010, the term of office of a Municipal Judge is 6 years.

**Sec. 36. Section 2.310 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 416, Statutes of Nevada 2001, at page 2101, is hereby amended to read as follows:**

Sec. 2.310 Powers of City Council: Acquisition or establishment of City utility.

1. Except as otherwise provided in subsection 3 of section 2.300 and section 2.315, the City Council, on behalf of the City and in its name, may acquire, establish, hold, manage and operate, alone or with any other government or any instrumentality or subdivision of any government, any public utility in the manner which is provided in this section.

2. The City Council ~~[must]~~ **shall** adopt a resolution which sets forth fully and in detail:

(a) The public utility which is proposed to be acquired or established.

(b) The estimated cost of that utility, as shown in a recent report, which has been approved by the City Council, of an engineer or consulting firm which had previously been appointed by the City Council for that purpose.

(c) The proposed bonded indebtedness which must be incurred to acquire or establish that utility, the terms, amount and rate of interest of that indebtedness and the time within which, and the fund from which, that indebtedness is redeemable.

(d) That a public hearing on the advisability of acquiring the public utility will be held at the first regular meeting of the City Council after the final publication of the resolution.

3. The resolution must be published in full at least once a week for 4 successive weeks.

4. At the first regular meeting of the City Council, or any adjournment of that meeting, after the completion of the publication, the City Council may, without an election, enact an ordinance for that purpose, which must conform in all respects to the terms and conditions of the resolution, unless, within 30 days after the final publication of the resolution, a petition is filed with the City Clerk which has been signed by a number of registered voters of the City which is not less than 15 percent of the registered voters of the City, as shown by the last preceding registration list, who own not less than 10 percent in assessed value of the taxable property within the City, as shown by the last preceding tax list or assessment roll, and which prays for the submission of the question of the enactment of the proposed ordinance at a special election or the next primary ~~for general~~ municipal **and state** election or ~~primary or~~ general **municipal and** state election. Upon the filing of that petition, the proposed ordinance may not be enacted or be effective for any purpose unless, at a special election or primary ~~for general~~ municipal **and state** election or ~~primary or~~ general **municipal and** state election, a majority of the votes which are cast in that election are cast in favor of the enactment of the ordinance.

5. A special election may be held only if the City Council determines, by a unanimous vote, that an emergency exists. The determination made by the City Council is conclusive unless it is shown that the City Council acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the City Council must be commenced within 15 days after the City Council's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the City Council to prevent or mitigate a substantial financial loss to the City or to enable the City Council to provide an essential service to the residents of the City.

6. If the proposed ordinance is adopted, without an election or as a result of an election, the City Council may issue bonds to obtain revenue for

acquiring or constructing systems, plants, works, instrumentalities and properties which are needed in connection with that public utility.

**Sec. 37. Section 4.010 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 6, Statutes of Nevada 2001, at page 10, is hereby amended to read as follows:**

Sec. 4.010 Municipal Court.

1. There is a Municipal Court of the City which consists of at least two departments, each of which must be presided over by a Municipal Judge and has such power and jurisdiction as is prescribed in, and is, in all respects which are not inconsistent with this Charter, governed by chapters 5 and 266 of NRS which relate to municipal courts.

2. The City Council may from time to time establish additional departments of the Municipal Court and shall appoint an additional Municipal Judge for each.

3. At the first general election which follows the appointment of an additional Municipal Judge to a newly created department of the Municipal Court, the successor to that Municipal Judge must be elected for a term of not more than 6 years, as determined by the City Council, in order to effectuate the intent of this provision that, as nearly as practicable, ~~it~~:

(a) At least one-third of the number of Municipal Judges be elected every 2 years, ~~it~~ ; or

(b) Not more than one-half of the number of Municipal Judges be elected in any 1 year.

4. The respective departments of the Municipal Court must be numbered 1 through the appropriate Arabic number, as additional departments are approved by the City Council. A Municipal Judge must be elected for each department by number.

**Sec. 38. Section 5.010 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 637, Statutes of Nevada 1999, at page 3565, is hereby amended to read as follows:**

Sec. 5.010 Primary ~~municipal~~ elections.

1. On the Tuesday after the first Monday in April ~~[2001, and at each successive interval of 4 years,]~~ 2009, a primary municipal election must be held in the City ~~at which time candidates for half of the offices of~~ Councilman from the Second, Fourth and Sixth Wards and for Municipal Judge ~~[, Department 2,]~~ for Departments 1, 4 and 6 must be nominated.

2. ~~[On the Tuesday after the first Monday in April 2003, and at each successive interval of 4 years, a primary municipal election must be held in the City at which time candidates for Mayor, for the other half of the offices of Councilman and for Municipal Judge, Department 1, must be nominated.~~

3. On the Tuesday after the first Monday in April 2011, a primary election must be held in the City, at which time candidates for Mayor, for

Councilman from the First, Third and Fifth Wards and for Municipal Judge for Departments 2, 3 and 5 must be nominated.

3. On the twelfth Tuesday before the general election in November 2014, and at each successive interval of 4 years, a primary election must be held in the City, at which time candidates for Councilman from the Second, Fourth and Sixth Wards must be nominated.

4. On the twelfth Tuesday before the general election in November 2016, and at each successive interval of 4 years, a primary election must be held in the City, at which time candidates for Mayor and for Councilman from the First, Third and Fifth Wards must be nominated.

5. On the twelfth Tuesday before the general election in November 2016, and at each successive interval of 6 years, a primary election must be held in the City, at which time candidates for Municipal Judge for Departments 1, 4 and 6 must be nominated.

6. On the twelfth Tuesday before the general election in November 2018, and at each successive interval of 6 years, a primary election must be held in the City, at which time candidates for Municipal Judge for Departments 2, 3 and 5 must be nominated.

7. The candidates for Councilman who are to be nominated as provided in subsections 1 ~~and 2~~ to 4, inclusive, must be nominated and voted for separately according to the respective wards. ~~The candidates from each even numbered ward must be nominated as provided in subsection 1, and the candidates from each odd numbered ward must be nominated as provided in subsection 2.~~

~~4.~~ 8. If the City Council has established an additional department or departments of the Municipal Court pursuant to section 4.010 ~~of this Charter,~~ and, as a result, more than one office of Municipal Judge is to be filled at any election, the candidates for those offices must be nominated and voted upon separately according to the respective departments.

~~5.~~ 9. Each candidate for the municipal offices which are provided for in subsections 1 ~~, 2 and 4~~ to 8, inclusive, must file a declaration of candidacy with the City Clerk. All filing fees collected by the City Clerk must be paid into the City Treasury.

~~6.~~ 10. If, in the primary election, regardless of the number of candidates for an office, one candidate receives a majority of votes which are cast in that election for the office for which he is a candidate, he must be declared elected for the term which commences on the day of the first regular meeting of the City Council next succeeding the meeting at which the canvass of the returns is made, and no general election need be held for that office. If, in the primary election, no candidate receives a majority of votes which are cast in that election for the office for which he is a candidate, the names of the two candidates who receive the highest number of votes must be placed on the ballot for the general election.

**Sec. 39. Section 5.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1415, is hereby amended to read as follows:**

Sec. 5.020 General ~~[municipal election.]~~ elections.

1. A general ~~[municipal]~~ election must be held in the City on the first Tuesday after the ~~[1st]~~ first Monday in ~~[June]~~ November of each ~~[odd-numbered]~~ even-numbered year and on the same day every 2 years thereafter, at which time there must be elected those officers whose offices are required to be filled by election in that year.

2. All candidates for elective office, except the office of Councilman, must be voted upon by the registered voters of the City at large.

**Sec. 40. Section 5.110 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1416, is hereby amended to read as follows:**

Sec. 5.110 Special elections: Registration of electors.

1. If a question is to be submitted to the registered voters of the City at a ~~[municipal or state]~~ primary municipal and state or general municipal and state election, no notice of registration of electors is required other than that which is required by the election laws of the State for that election. If the question is to be submitted at a special municipal election, the City Clerk shall at the expense of the City, cause to be published at least once a week for 5 consecutive weeks by five weekly insertions 1 week apart, the first publication to be not more than 60 days nor less than 45 days next preceding the election, a notice which has been signed by ~~[him]~~ the City Clerk to the effect that registration for the special election will be closed on the date which is designated in the notice, as provided in this section.

2. Except as otherwise provided in this subsection, the Office of the City Clerk must be open for the special election from 9 a.m. to 12 m. and from 1 p.m. to 5 p.m. on Mondays through Fridays, with legal holidays excepted, for the registration of any qualified elector.

**Sec. 41. Section 1.060 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 515, Statutes of Nevada 1997, at page 2451, is hereby amended to read as follows:**

Sec. 1.060 Elective offices: Vacancies. Except as otherwise provided in NRS 268.325:

1. A vacancy in the City Council or in the office of Mayor or Municipal Judge must be filled by a majority vote of the members of the City Council within 30 days after the occurrence of the vacancy. A person may be selected to fill a prospective vacancy in the City Council before the vacancy occurs. In such a case, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may participate in any action taken by the Council pursuant to this section. The appointee must have the same qualifications as are required of the elective official.

2. No such appointment extends beyond the first day of ~~July~~ December after the next municipal election, at which election the office must be filled for the remaining unexpired term.

**Sec. 42. Section 2.010 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2691, is hereby amended to read as follows:**

Sec. 2.010 City Council: Qualifications; election; term of office; salary. ~~[[Effective on December 1, 2006, if the registered voters of the City of North Las Vegas, at the General Election held on November 7, 2006, approve the question of whether the City Councilmen of the City of North Las Vegas must be voted for and elected only by the registered voters of the ward that a Councilman will represent.]]~~

1. The legislative power of the City is vested in a City Council consisting of four Councilmen and a Mayor.

2. The Mayor must be:

(a) A bona fide resident of the City for at least 6 months immediately preceding his election.

(b) A qualified elector within the City.

3. Each Councilman:

(a) Must be a qualified elector who has resided in the ward which he represents for at least 30 days immediately preceding the last day for filing a declaration of candidacy for his office.

(b) Must continue to live in the ward he represents, except that changes in ward boundaries made pursuant to section 1.045 ~~[of this Charter]~~ will not affect the right of any elected Councilman to continue in office for the term for which he was elected.

4. At the time of filing, if so required by an ordinance duly enacted, candidates for the office of Mayor and Councilman shall produce evidence in satisfaction of any or all of the qualifications provided in subsection 2 or 3, whichever is applicable.

5. Each Councilman must be voted upon only by the registered voters of the ward that he seeks to represent, and except as otherwise provided in section 5.010, his term of office is 4 years.

6. The Mayor must be voted upon by the registered voters of the City at large, and except as otherwise provided in section 5.010, his term of office is 4 years.

7. The Mayor and Councilmen are entitled to receive a salary in an amount fixed by the City Council.

**Sec. 43. Section 4.005 of the Charter of the City of North Las Vegas, being chapter 215, Statutes of Nevada 1997, as amended by chapter 73, Statutes of Nevada 2003, at page 484, is hereby amended to read as follows:**

Sec. 4.005 Municipal Court.



1. There is a Municipal Court of the City which consists of at least one department. Each department must be presided over by a Municipal Judge and has such power and jurisdiction as is prescribed in, and is, in all respects which are not inconsistent with this Charter, governed by the provisions of chapters 5 and 266 of NRS which relate to municipal courts.

2. The City Council may, from time to time, by ordinance, establish additional departments of the Municipal Court and shall appoint an additional Municipal Judge for each additional department.

3. At the first municipal primary or municipal general election that follows the appointment of an additional Municipal Judge to a newly created department of the Municipal Court, the successor to that Municipal Judge must be elected for an initial term of not more than 6 years, as determined by the City Council, ~~in order~~ so that, as nearly as practicable, one-third of the number of Municipal Judges ~~be~~ is elected every 2 years.

4. Except as otherwise provided by the ordinance establishing an additional department ~~+~~ or section 5.010, each Municipal Judge must be voted upon by the registered voters of the City at large and holds office for a period of 6 years and until his successor has been elected and qualified.

5. The respective departments of the Municipal Court must be numbered 1 through the appropriate Arabic numeral, as additional departments are approved by the City Council. A Municipal Judge must be elected for each department by number.

**Sec. 44. Section 5.010 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2691, is hereby amended to read as follows:**

~~Sec. 5.010 General ~~municipal~~ elections. ~~[[Effective on December 1, 2006, if the registered voters of the City of North Las Vegas, at the General Election held on November 7, 2006, approve the question of whether the City Councilmen of the City of North Las Vegas must be voted for and elected only by the registered voters of the ward that a Councilman will represent.]]~~~~

1. On the first Tuesday after the first Monday in June ~~[1977, and at each successive interval of 4 years thereafter, there must]~~ 2009, there shall be elected, at a general municipal election to be held for that purpose, a Mayor and two Councilmen, who shall hold office ~~[for a period of 4 years and]~~ until their successors have been elected and qualified ~~+~~ pursuant to subsection 3.

2. On the first Tuesday after the first Monday in June ~~[1975, and at each successive interval of 4 years thereafter, there must]~~ 2011, there must be elected, at a general election to be held for that purpose, two Councilmen ~~+~~ who shall hold office ~~[for a period of 4 years and]~~ until their successors have been elected and qualified ~~+~~ pursuant to subsection 4.

3. On the first Tuesday after the first Monday in November 2012, and at each successive interval of 4 years thereafter, there must be elected by the qualified voters of the City, at the general election, a Mayor and two

Councilmen, who shall hold office for a period of 4 years and until their successors have been elected and qualified.

4. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years thereafter, there must be elected by the qualified voters of the City, at the general election, two Councilmen who shall hold office for a period of 4 years and until their successors have been elected and qualified.

5. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 6 years thereafter, there must be elected by the qualified voters of the City, at the general election, a Municipal Judge for Department 1 who shall hold office for a period of 6 years and until his successor has been elected and qualified.

6. On the first Tuesday after the first Monday in November 2012, and at each successive interval of 6 years thereafter, there must be elected by the qualified voters of the City, at the general election, a Municipal Judge for Department 2 who shall hold office for a period of 6 years and until his successor has been elected and qualified.

7. In such a general election:

(a) A candidate for the office of City Councilman must be elected only by the registered voters of the ward that he seeks to represent.

(b) Candidates for all other elective offices must be elected by the registered voters of the City at large.

**Sec. 45. Section 5.020 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2692, is hereby amended to read as follows:**

~~Sec. 5.020 Primary ~~municipal~~ elections; declaration of candidacy. ~~[[Effective on December 1, 2006, if the registered voters of the City of North Las Vegas, at the General Election held on November 7, 2006, approve the question of whether the City Councilmen of the City of North Las Vegas must be voted for and elected only by the registered voters of the ward that a Councilman will represent.]]~~~~

1. The City Council shall provide by ordinance for candidates for elective office to declare their candidacy and file the necessary documents. The seats for City Councilmen must be designated by the numbers one through four, which numbers must correspond with the wards the candidates for City Councilmen will seek to represent. A candidate for the office of City Councilman shall include in his declaration of candidacy the number of the ward which he seeks to represent. Each candidate for City Council must be designated as a candidate for the City Council seat that corresponds with the ward that he seeks to represent.

2. If for any general municipal election there are three or more candidates for the offices of Mayor or Municipal Judge, or for a particular City Council seat, a primary election for any such office must be held on the

twelfth Tuesday ~~Following the first Monday in April~~ preceding the general election. In the primary election:

(a) A candidate for the office of City Councilman must be voted upon only by the registered voters of the ward that he seeks to represent.

(b) Candidates for all other elective offices must be voted upon by the registered voters of the City at large.

3. Except as otherwise provided in subsection 4, after the primary election, the names of the two candidates for Mayor, Municipal Judge and each City Council seat who receive the highest number of votes must be placed on the ballot for the general election.

4. If one of the candidates for Mayor, Municipal Judge or a City Council seat receives a majority of the total votes cast for that office in the primary election, he ~~shall~~ must be declared elected to office and his name must not appear on the ballot for the general election.

**Sec. 46. Section 5.080 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 465, Statutes of Nevada 1985, at page 1440, is hereby amended to read as follows:**

Sec. 5.080 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from any special, primary or general municipal election ~~shall~~ must be filed with the City Clerk, who shall immediately place the returns in a safe or vault, and no person may be permitted to handle, inspect or in any manner interfere with the returns until canvassed by the City Council.

2. The City Council shall meet at any time within 16 days after any election and shall canvass the returns and declare the result. The election returns must then be sealed and kept by the City Clerk for 6 months, and no person may have access thereto except on order of a court of competent jurisdiction or by order of the City Council.

3. The City Clerk, under his hand and official seal, shall issue to each person declared to be elected a certificate of election. The officers so elected shall qualify and enter upon the discharge of their respective duties on the ~~1st~~ first day of ~~July~~ December next following their election.

4. If any election should result in a tie, the City Council shall summon the candidates who received the tie vote and determine the tie by lot. The Clerk shall then issue to the winner a certificate of election.

**Sec. 47. On or before February 1, 2012, the governing body of a city incorporated pursuant to general law in a county whose population is 400,000 or more shall adopt the ordinance required pursuant to the provisions of subsection 2 of NRS 293C.115, as amended by section 1.3 of this act.**

**Sec. 48. 1. This section and sections 22, 25, 32, 34, 35, 37, 38, 42, 43 and 44 of this act become effective upon passage and approval.**

**2. Sections 1 and 2 to 20, inclusive, of this act become effective on October 1, 2007.**

**3. Sections 1.3, 1.7, 21, 23, 24, 26 to 31, inclusive, 33, 36, 39, 40, 41, 45, 46 and 47 of this act become effective on January 1, 2012.**

Assemblyman Conklin moved that the Assembly do not concur in the Senate Amendment No. 987 to Assembly Bill No. 604.

Remarks by Assemblyman Conklin.

Motion carried.

Bill ordered transmitted to the Senate.

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

Assembly in recess at 12:36 p.m.

#### ASSEMBLY IN SESSION

At 12:40 p.m.

Mr. Speaker pro Tempore presiding.

Quorum present.

#### REPORTS OF COMMITTEES

*Madam Speaker:*

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 621, 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*

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 621.

Bill read third time.

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

Amendment No. 1046.

AN ACT relating to energy; making various changes relating to the application procedures for and the provision of tax abatements and exemptions based upon the use of energy; repealing certain prospective energy requirements for public buildings; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2 and 3 of this bill require the Director of the Office of Energy to adopt a system for rating buildings based upon ~~[Version 2.1 or a later version of]~~ the Leadership in Energy and Environmental Design Green Building Rating System, ~~[for New Construction & Major Renovations,]~~ and authorize the ~~[Department of Taxation]~~ **Director** to grant, under certain conditions, a partial abatement of property taxes for certain buildings based upon the rating of the building.

Existing law authorizes the Commission on Economic Development to approve, under certain conditions, a partial abatement of certain taxes for a person who intends to locate or expand a business in this State. (NRS 360.750) Existing law prescribes the terms of such a partial abatement of property taxes for certain businesses that conserve energy or fossil sources of energy through recycling, for certain facilities that generate electrical energy from renewable energy and for facilities that produce certain devices for the storage of electrical energy. (NRS 361.0685, 361.0687) Sections 4, 5, 8 and 16 of this bill repeal those terms and prescribe substantially identical terms.

Existing law provides an exemption from property taxes for any value added to the assessed value of a building by certain qualified systems that provide heating, cooling or electricity. (NRS 361.079) Sections 6 and 16 of this bill repeal that exemption and provide a substantially similar exemption.

Existing law prescribes the terms of a partial abatement of certain sales and use taxes, if approved by the Commission on Economic Development, for certain facilities that generate electricity from renewable energy or produce certain devices for the storage of electrical energy. (NRS 374.357) Sections 7 and 11 of this bill repeal those terms and prescribe substantially identical terms.

Sections 12 and 16 of this bill repeal certain energy requirements for public buildings which otherwise would have become effective on July 1, 2007. Section 13 of this bill prescribes similar requirements for certain public buildings for which construction has not yet been completed on that date.

Existing law requires the Director of the Office of Energy to adopt a system for rating buildings for the purposes of certain tax exemptions and the construction of certain public buildings. (NRS 701.217) Section 16 of this bill repeals those requirements.

Existing law authorizes the Commission on Economic Development to grant a partial abatement of property taxes for certain structures that use resources efficiently. (NRS 361.0775) Section 16 of this bill repeals that authority.

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

Section 1. Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. ***1. The Director of the Office of Energy shall adopt a Green Building Rating System for the purposes of determining the eligibility of a building or other structure for a tax abatement pursuant to section 3 of this act.***

***2. The Green Building Rating System must include standards and ratings equivalent to the standards and ratings provided pursuant to ~~{Version 2.1 or a later version of}~~ the Leadership in Energy and Environmental Design Green Building Rating System\_\_, ~~for New~~***

~~Construction & Major Renovations,~~ except that the standards adopted by the Director:

(a) Except as otherwise provided in paragraphs (b) and (c), ~~for required to carry out this subsection,~~ must not include ~~any~~;

(1) Any standard that has not been included in the Leadership in Energy and Environmental Design Green Building Rating System ~~for New Construction & Major Renovations~~ for at least ~~5~~ 2 years; or

(2) Standards for homes;

(b) Must provide reasonable exceptions based on the size of the area occupied by the building or other structure; and

(c) Must ~~provide up to 2 points of additional~~ require a building or other structure to obtain:

(1) At least 3 points of credit for energy conservation ~~to meet the equivalent of the silver level;~~

(2) At least 5 points of credit for energy conservation to meet the equivalent of the gold level; and

(3) At least 8 points of credit for energy conservation to meet the equivalent of the platinum level.

3. As used in this section, "home" means a building or other structure for which the principal use is as a residential dwelling for not more than four families.

Sec. 3. 1. Except as otherwise provided in this section, the ~~Department of Taxation~~ Director shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS ~~that are not used to provide funding for school districts,~~ other than any taxes imposed for public education, on a building or other structure that is determined to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director ~~of the Office of Energy~~ pursuant to section 2 of this act, if:

(a) No funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this paragraph:

(1) Private activity bonds must not be considered funding provided by a governmental entity.

(2) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.

(b) The owner of the property:

(1) Submits an application for the partial abatement to the Director ~~not later than June 30, 2009.~~ If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project ~~changes by 10 percent or more~~ after that date, the application ~~expires.~~ must be amended to include the change or changes.

(2) ~~[Provides]~~ Except as otherwise provided in this subparagraph, provides to the Director, within ~~36~~ 48 months after applying for the partial abatement, proof that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to section 2 of this act. The Director may, for good cause shown, extend the period for providing such proof.

2. As soon as practicable after the Director receives ~~the~~ :

(a) The application required by subsection 1, the Director shall forward a copy of that application to the:

(1) Chief of the Budget Division of the Department of Administration;

(2) Department of Taxation;

(3) County assessor;

(4) County treasurer; and

(5) Commission on Economic Development.

(b) The application and proof required by subsection 1, the Director shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the :

(1) Department of Taxation ;

(2) County assessor;

(3) County treasurer; and ~~the~~

(4) Commission on Economic Development.

3. As soon as practicable after receiving a copy of a an application pursuant to paragraph (a) of subsection 2, the Chief of the Budget Division and each affected local government shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on that governmental entity.

4. The partial abatement:

(a) Must be for a duration of not more than 10 years and in an annual amount that equals, for a building or other structure that meets the equivalent of:

(1) The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS ~~[that are not used to provide funding for school districts,]~~ , other than any taxes imposed for public education, that would otherwise be payable for the building or other ~~[structure,]~~ structure excluding the associated land;

(2) The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS ~~[that are not used to provide funding for school districts,]~~ , other than any taxes imposed for public education, that would otherwise be payable for the building or other ~~[structure,]~~ structure excluding the associated land; or

(3) The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS ~~[that are not used to provide funding for~~

school districts,] , other than any taxes imposed for public education, that would otherwise be payable for the building or other ~~[structure.]~~ structure excluding the associated land.

*(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.*

*(c) Terminates upon any determination by the ~~[Department of Taxation]~~ Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:*

*(1) Department of Taxation;*

*(2) County assessor;*

*(3) County treasurer; and*

*(4) Commission on Economic Development.*

~~*[4. Any person claiming the abatement shall provide annually to the Department of Taxation such information regarding the continuing eligibility of the property for the abatement as the Department determines to be appropriate.]*~~

*5. The Director shall adopt regulations ~~[establishing]~~ :*

*(a) Establishing the qualifications and methods to determine eligibility for the abatement [and prescribing] ;*

*(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director ~~[. The Department of Taxation]~~ ; and*

*(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (b) of subsection 1,*

*↪ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.*

*6. As used in this section ~~[,]~~ :*

*(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.*

*(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.*

*(c) "Taxes imposed for public education" means:*

*(1) Any ad valorem tax authorized or required by chapter 387 of NRS;*

*(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and*



(3) Any other ad valorem tax for which the proceeds thereof are dedicated to public education.

Sec. 4. 1. Except as otherwise provided in this section, if a:

(a) Business that engages in the primary trade of preparing, fabricating, manufacturing or otherwise processing raw material or an intermediate product through a process in which at least 50 percent of the material or product is recycled on-site; or

(b) Business that includes as a primary component a facility for the generation of electricity from recycled material,

↪ is found by the Commission on Economic Development to have as a primary purpose the conservation of energy or the substitution of other sources of energy for fossil sources of energy and obtains certification from the Commission on Economic Development pursuant to NRS 360.750, the Commission may, if the business additionally satisfies the requirements set forth in subsection 2 of NRS 361.0687, grant to the business a partial abatement from the taxes imposed on real property pursuant to chapter 361 of NRS.

2. If a partial abatement from the taxes imposed on real property pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to NRS 360.750 for a business described in subsection 1:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on real property payable by the business each year; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

3. The partial abatement provided in this section applies only to the business for which certification was granted pursuant to NRS 360.750 and the property used in connection with that business. The exemption does not apply to property in this State that is not related to the business for which the certification was granted pursuant to NRS 360.750 or to property in existence and subject to taxation before the certification was granted.

4. As used in this section, "facility for the generation of electricity from recycled material" means a facility for the generation of electricity that uses recycled material as its primary fuel, including material from:

(a) *Industrial or domestic waste, other than hazardous waste, even though it includes a product made from oil, natural gas or coal, such as plastics, asphalt shingles or tires;*

(b) *Agricultural crops, whether terrestrial or aquatic, and agricultural waste, such as manure and residue from crops; and*

(c) *Municipal waste, such as sewage and sludge.*

↪ *The term includes all the equipment in the facility used to process and convert into electricity the energy derived from a recycled material fuel.*

Sec. 5. 1. *If a partial abatement from the taxes imposed pursuant to chapter 361 of NRS is approved by the Commission on Economic Development pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:*

(a) *The partial abatement must be:*

(1) *For a duration of 10 years;*

(2) *Equal to 50 percent of the taxes on real and personal property payable by the facility each year; and*

(3) *Administered and carried out in the manner set forth in NRS 360.750.*

(b) *The Executive Director of the Commission on Economic Development shall:*

(1) *Notify the county assessor of the county in which the facility is located of the approval of the partial abatement; and*

(2) *Advise the county assessor of the county in which the facility is located as to the dates on which the partial abatement will begin and end.*

2. *As used in this section:*

(a) *"Biomass" means any organic matter that is available on a renewable basis, including, without limitation:*

(1) *Agricultural crops and agricultural wastes and residues;*

(2) *Wood and wood wastes and residues;*

(3) *Animal wastes;*

(4) *Municipal wastes; and*

(5) *Aquatic plants.*

(b) *"Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.*

(c) *"Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:*

(1) *Uses renewable energy as its primary source of energy; and*

(2) *Has a generating capacity of at least 10 kilowatts.*

↪ *The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.*

(d) *"Renewable energy" means:*

- (1) *Biomass*;
- (2) *Solar energy*; or
- (3) *Wind*.

↪ *The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.*

Sec. 6. 1. *For purposes of the assessment of property pursuant to chapter 361 of NRS:*

(a) *Except as otherwise provided in paragraph (b), the value of a qualified system must not be included in the assessed value of a building.*

(b) *Any value added by a qualified system must be included in the assessed value of a commercial or industrial building during any period in which the business that owns the commercial or industrial building is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.*

2. *The Department of Taxation shall adopt such regulations as it determines to be necessary for the administration of this section.*

3. *As used in this section, "qualified system" means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in a residential, commercial or industrial building to heat or cool the building or water used in the building, or to provide electricity used in the building, by using:*

- (a) *Energy from the wind or from solar devices not thermally insulated from the area where the energy is used;*
- (b) *Geothermal resources;*
- (c) *Energy derived from conversion of solid wastes; or*
- (d) *Waterpower,*

↪ *which conforms to standards established by regulation of the Department of Taxation.*

Sec. 7. *If an application for an abatement from taxes pursuant to NRS 374.357 is approved pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:*

1. *The taxpayer is eligible for the abatement for 2 years.*
2. *The abatement must be administered and carried out in the manner set forth in NRS 360.750.*
3. *For the purposes of this section and the abatement, unless the context otherwise requires:*

(a) *"Biomass" means any organic matter that is available on a renewable basis, including, without limitation:*

- (1) *Agricultural crops and agricultural wastes and residues;*
- (2) *Wood and wood wastes and residues;*
- (3) *Animal wastes;*
- (4) *Municipal wastes; and*
- (5) *Aquatic plants.*

(b) *"Eligible machinery or equipment" means:*

(1) *If the business that qualifies for the abatement is a facility for the production of an energy storage device, machinery or equipment which is leased or purchased and for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:*

- (I) *Buildings or the structural components of buildings;*
- (II) *Equipment used by a public utility;*
- (III) *Equipment used for medical treatment;*
- (IV) *Machinery or equipment used in mining;*
- (V) *Machinery or equipment used in gaming; or*
- (VI) *Aircraft.*

(2) *If the business that qualifies for the abatement is a facility for the generation of electricity from renewable energy, all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity.*

(c) *"Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.*

(d) *"Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:*

- (1) *Uses renewable energy as its primary source of energy; and*
- (2) *Has a generating capacity of at least 10 kilowatts.*

↪ *The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.*

(e) *"Fuel cell" means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.*

(f) *"Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:*

- (1) *Biomass;*
- (2) *Fuel cells;*
- (3) *Geothermal energy;*
- (4) *Solar energy;*
- (5) *Waterpower; and*
- (6) *Wind.*

↪ *The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.*

Sec. 8. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Commission on Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:

(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at least \$2,000,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:

(1) The business will make a capital investment in the county of at least \$500,000; and

(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

3. Except as otherwise provided in ~~{NRS 361.0685 and subsection 4,}~~ **sections 4 and 5 of this act**, if a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

4. ~~If a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:~~

~~(a) The partial abatement must be:~~

- ~~(1) For a duration of 10 years;~~
- ~~(2) Equal to 50 percent of the taxes on real and personal property payable by the facility each year pursuant to this chapter; and~~
- ~~(3) Administered and carried out in the manner set forth in NRS 360.750.~~

~~(b) The Executive Director of the Commission on Economic Development shall:~~

- ~~(1) Notify the county assessor of the county in which the facility is located of the approval of the partial abatement; and~~
- ~~(2) Advise the county assessor of the county in which the facility is located as to the dates on which the partial abatement will begin and end.~~

~~5.] As used in this section [:~~

~~(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:~~

- ~~(1) Agricultural crops and agricultural wastes and residues;~~
- ~~(2) Wood and wood wastes and residues;~~
- ~~(3) Animal wastes;~~
- ~~(4) Municipal wastes; and~~
- ~~(5) Aquatic plants.~~

~~(b) "Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.~~

~~(c) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:~~

- ~~(1) Uses renewable energy as its primary source of energy; and~~
- ~~(2) Has a generating capacity of at least 10 kilowatts.~~

~~➔ The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.~~

~~(d) "Industrial", "industrial or manufacturing business" does not include a facility for the generation of electricity from renewable energy [:~~

~~(e) "Renewable energy" means:~~

- ~~(1) Biomass;~~
- ~~(2) Solar energy; or~~
- ~~(3) Wind.~~

~~➔ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.] , as that term is defined in section 5 of this act.~~

Sec. 9. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Commission on Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:

(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at least \$5,000,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:

(1) The business will make a capital investment in the county of at least \$5,000,000 if the business is an industrial or manufacturing business or at least \$500,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

3. Except as otherwise provided in ~~NRS 361.0685~~, **section 4 of this act**, if a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

Sec. 10. NRS 361.777 is hereby amended to read as follows:

361.777 Any partial abatements and partial exemptions ~~from taxation~~ to which a person may be entitled *from the taxes imposed* pursuant to this chapter must be applied in the following order of priority:

1. Any partial abatement to which the person is entitled pursuant to NRS 361.4722, 361.4723 or 361.4724.

2. Any partial exemptions to which the person is entitled ~~. pursuant to this chapter.~~

3. Any partial abatements to which the person is entitled ~~pursuant to this chapter~~ other than a partial abatement described in subsection 1.

Sec. 11. NRS 374.357 is hereby amended to read as follows:

374.357 1. A person who maintains a business or intends to locate a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for an abatement from the taxes imposed by this chapter on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 360.750.

2. Except as otherwise provided in ~~subsection 3,~~ *section 7 of this act*, if an application for an abatement is approved pursuant to NRS 360.750:

(a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for not more than 2 years for machinery or equipment which is leased or purchased. In the case of machinery or equipment that is leased, the lessee is the taxpayer who is eligible for an abatement.

(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.

3. ~~If an application for an abatement is approved pursuant to NRS 360.750 for a facility for the generation of electricity from renewable energy or a facility for the production of an energy storage device:~~

~~(a) The taxpayer is eligible for an abatement from the tax imposed by this chapter for 2 years.~~

~~(b) The abatement must be administered and carried out in the manner set forth in NRS 360.750.~~

4. ~~As used in~~ *For the purposes of this section, except as otherwise provided in section 7 of this act or* unless the context otherwise requires ~~:-~~

~~(a) "Biomass" means any organic matter that is available on a renewable basis, including, without limitation:~~

~~(1) Agricultural crops and agricultural wastes and residues;~~

~~(2) Wood and wood wastes and residues;~~

~~(3) Animal wastes;~~

~~(4) Municipal wastes; and~~

~~(5) Aquatic plants.~~

~~(b) "Eligible", "eligible machinery or equipment" means :-~~

~~(1) If the business that qualifies for the abatement is not a facility for the generation of electricity from renewable energy,~~ machinery or equipment



which is leased or purchased and for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

- ~~{(I)}~~ (a) Buildings or the structural components of buildings;
- ~~{(II)}~~ (b) Equipment used by a public utility;
- ~~{(III)}~~ (c) Equipment used for medical treatment;
- ~~{(IV)}~~ (d) Machinery or equipment used in mining;
- ~~{(V)}~~ (e) Machinery or equipment used in gaming; or
- ~~{(VI)}~~ (f) Aircraft.

~~{(2) If the business that qualifies for the abatement is a facility for the generation of electricity from renewable energy, all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity.~~

~~(e) "Energy storage device" means a device for use and storage of electrical energy that alleviates the consumption of fossil fuel and does not produce fossil fuel emissions.~~

~~(d) "Facility for the generation of electricity from renewable energy" means a facility for the generation of electricity that:~~

- ~~(1) Uses renewable energy as its primary source of energy; and~~
- ~~(2) Has a generating capacity of at least 10 kilowatts.~~

~~➔ The term includes all the machinery and equipment that is used in the facility to collect and store the renewable energy and to convert the renewable energy into electricity. The term does not include a facility that is located on residential property.~~

~~(e) "Fuel cell" means a device or contrivance which, through the chemical process of combining ions of hydrogen and oxygen, produces electricity and water.~~

~~(f) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:~~

- ~~(1) Biomass;~~
- ~~(2) Fuel cells;~~
- ~~(3) Geothermal energy;~~
- ~~(4) Solar energy;~~
- ~~(5) Waterpower; and~~
- ~~(6) Wind.~~

~~➔ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.]~~

Sec. 12. Section 42 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 90, is hereby amended to read as follows:

Sec. 42. 1. This section and sections 14 to 37, inclusive, 39, 40 and 41 of this act become effective upon passage and approval.

2. Section 38 of this act becomes effective on June 1, 2005.

3. Sections 1, 2, 4, 6, 7, 8 and 9 to 13, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2005, for all other purposes.

4. Section 5 of this act becomes effective on October 1, 2005, and applies to the construction or renovation of a public building, the designing of which begins on or after that date.

5. Sections 8.1 to 8.8, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2006, for all other purposes.

6. ~~{Section 3 of this act becomes effective on July 1, 2007, and applies to the construction of a public building, the designing of which begins on or after that date.~~

~~7.} Sections 8.55 and 8.6 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.

Sec. 13. ~~{1. Each proposed public building whose construction is being or will be sponsored or financed by this State must, when completed, meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to this section.~~

~~2. The Director of the Office of Energy, in consultation with the State Public Works Board and any other interested agency, shall, in cooperation with representatives of the building and development industry, adopt guidelines establishing Green Building Standards for the purposes of subsection 1.~~

~~3. Guidelines adopted pursuant to subsection 2 must include, without limitation, suggested:~~

~~(a) Requirements for the use of resource efficient materials for the construction and maintenance of the building;~~

~~(b) Standards for indoor environmental quality;~~

~~(c) Standards for the efficient use of water, including the efficient use of water for landscaping purposes;~~

~~(d) Standards for the efficient use of energy; and~~

~~(e) Requirements for the design and preparation of building lots.~~

~~4. If standards equivalent to the Leadership in Energy and Environmental Design Green Building Rating System are adopted, the standards adopted must provide reasonable exceptions based on the size, location and use of the building.~~

~~5. Subject to the provisions of subsection 6, the Director of the Office of Energy shall establish a process for adopting a Green Building Rating System, such as the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent. The process must include, without limitation:~~

- ~~(a) The gathering and development of scientific data;~~
- ~~(b) Comments from representatives of the building industry;~~
- ~~(c) Consensus from representatives of the building industry;~~
- ~~(d) A method by which the Director, the State Public Works Board and other interested agencies may cast ballots on the proposed standards; and~~
- ~~(e) A process by which an aggrieved person may file an appeal of the standards adopted.~~

~~6. In adopting a Green Building Rating System pursuant to subsection 5, the Director is not required to adopt and is not limited to using the Leadership in Energy and Environmental Design Green Building Rating System but may adopt an equivalent rating system based on any other nationally recognized standards for green buildings, or any combination of those standards.~~

~~7. The governmental entity responsible for a proposed public building shall, on or before December 31, 2008, prepare an analysis of the costs and benefits of complying with the provisions of subsection 1 and submit a copy of the analysis to the Director of the Legislative Counsel Bureau for distribution to the members of the Legislature.~~

~~8. As used in this section, "proposed public building" means a public building:~~

- ~~(a) For which, on July 1, 2007:~~
  - ~~(1) The design has been completed or the construction of which has been advertised for bids; and~~
  - ~~(2) Construction has not yet been completed; and~~
- ~~(b) Which is intended to be used primarily as an office space or work area for persons employed by this State. The term does not include a public building used primarily as a storage facility or warehouse or for similar purposes.] (Deleted by amendment.)~~

Sec. 14. 1. The Director of the Office of Energy shall, not later than September 1, 2007, adopt:

- (a) The Green Building Rating System required by section 2 of this act;
- (b) The regulations required by section 3 of this act; and
- (c) The Green Building Rating System required by section 13 of this act.

2. The Department of Taxation shall, not later than September 1, 2007, adopt the regulations required by section 3 of this act.

**3. The Director of the Office of Energy shall provide an expedited procedure to carry out the provisions of section 3 of this act which allows for the consideration as soon as practicable for that purpose of applications filed before the effective date of this section with the Commission on Economic Development for a partial abatement of taxes pursuant to NRS 361.0775.**

Sec. 15. 1. The provisions of section 4 of this act shall be deemed to apply to any partial abatement of taxes granted pursuant to NRS 361.0685 before the effective date of this section.

2. The provisions of section 5 of this act shall be deemed to apply to any partial abatement of taxes to which subsection 4 of NRS 361.0687 applied before the effective date of this section.

3. The provisions of section 7 of this act shall be deemed to apply to any partial abatement of taxes to which subsection 3 of NRS 374.357 applied before the effective date of this section.

**4. The Commission on Economic Development shall not grant any partial abatement of taxes pursuant to NRS 361.0775 on or after the effective date of this section.** The provisions of this act do not affect the terms of any partial abatement of taxes granted by the Commission on Economic Development pursuant to NRS 361.0775 before the effective date of this section.

**5. The tax exemption provided pursuant to paragraph (d) of subsection 1 of NRS 374.307, as amended by chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 71, shall be deemed to apply to products and materials purchased on or after October 1, 2005, and on or before December 31, 2010, that are used in the construction of a building which:**

**(a) Is constructed:**

**(1) Pursuant to a preconstruction or construction contract executed on or before December 31, 2005; and**

**(2) As part of a construction project registered with the Office of Energy for the purpose of obtaining that tax exemption; and**

**(b) Is certified at or meets the equivalent of the silver level or higher by an independent contractor authorized to grant such certification in accordance with the Green Building Rating System adopted by the Director of the Office of Energy pursuant to the former provisions of NRS 701.217.**

*Sec. 15.5.* 1. Except as otherwise provided in this section, the Director shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure which:

**(a) Is constructed:**

**(1) Pursuant to a preconstruction or construction contract executed on or before December 31, 2005; and**

(2) As part of a construction project registered with the Office of Energy for the purpose of obtaining the partial abatement of taxes provided pursuant to the former provisions of NRS 361.0775; and

(b) Is certified at or meets the equivalent of the silver level or higher by an independent contractor authorized to grant such certification in accordance with the Green Building Rating System adopted by the Director of the Office of Energy pursuant to the former provisions of NRS 701.217.

2. The Director shall not grant the partial abatement if any funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this subsection:

(a) Private activity bonds must not be considered funding provided by a governmental entity.

(b) The term “private activity bond” has the meaning ascribed to it in 26 U.S.C. § 141.

3. To obtain the partial abatement, the owner of the property must:

(a) Submit an application for the partial abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.

(b) Except as otherwise provided in this paragraph, provide to the Director, within 48 months after applying for the partial abatement, proof that the building or other structure is certified at or meets the equivalent of the silver level or higher by an independent contractor authorized to grant such certification in accordance with the Green Building Rating System adopted by the Director pursuant to the former provisions of NRS 701.217. The Director may, for good cause shown, extend the period for providing such proof.

4. As soon as practicable after the Director receives:

(a) The application required by subsection 3, the Director shall forward a copy of that application to the:

(1) Chief of the Budget Division of the Department of Administration;

(2) Department of Taxation;

(3) County assessor;

(4) County treasurer; and

(5) Commission on Economic Development.

(b) The application and proof required by subsection 3, the Director shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:

(1) Department of Taxation;

(2) County assessor;

- (3) County treasurer; and
- (4) Commission on Economic Development.

5. As soon as practicable after receiving a copy of an application pursuant to paragraph (a) of subsection 4, the Chief of the Budget Division and each affected local government shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on that governmental entity.

6. The partial abatement:

(a) Must be for a duration of not more than 10 years and in an annual amount that equals 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure excluding the associated land.

(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption from the taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement to which the owner is entitled pursuant to NRS 361.471 to 361.4735, inclusive.

(c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

- (1) Department of Taxation;
- (2) County assessor;
- (3) County treasurer; and
- (4) Commission on Economic Development.

7. The Director shall:

(a) Adopt regulations:

(1) Establishing the qualifications and methods to determine eligibility for the abatement;

(2) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(3) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of paragraph (a) of subsection 3,

↪ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

(b) Provide an expedited procedure to carry out the provisions of this section which allows for the consideration as soon as practicable for that purpose of applications filed before the effective date of this section with

the Commission on Economic Development for a partial abatement of taxes pursuant to NRS 361.0775.

8. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to public education.

Sec. 16. 1. NRS 361.0685, 361.0775, 361.079 and 701.217 are hereby repealed.

2. Section 3 of chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 69, is hereby repealed.

Sec. 17. 1. This section and sections 1, 4 to 8, inclusive, and 10 to 16, inclusive, of this act become effective upon passage and approval.

2. Sections 2 and 3 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2007, for all other purposes.

3. Sections 5, 7, 8 and 11 of this act expire by limitation on June 30, 2009.

4. Section 9 of this act becomes effective on July 1, 2009.

#### TEXT OF REPEALED SECTIONS

361.0685 Exemption of percentage of personal and real property of certain businesses certified by Commission on Economic Development.

1. Except as otherwise provided in this section, if a:

(a) Business that engages in the primary trade of preparing, fabricating, manufacturing or otherwise processing raw material or an intermediate product through a process in which at least 50 percent of the material or product is recycled on site; or

(b) Business that includes as a primary component a facility for the generation of electricity from recycled material,

↪ is found by the Commission on Economic Development to have as a primary purpose the conservation of energy or the substitution of other sources of energy for fossil sources of energy and obtains certification from

the Commission on Economic Development pursuant to NRS 360.750, the Commission may, if the business additionally satisfies the requirements set forth in subsection 2 of NRS 361.0687, grant to the business a partial abatement from the taxes imposed on real property by this chapter.

2. If a partial abatement from the taxes imposed on real property by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750 for a business described in subsection 1:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on real property payable by the business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

3. The partial abatement provided in this section applies only to the business for which certification was granted pursuant to NRS 360.750 and the property used in connection with that business. The exemption does not apply to property in this state that is not related to the business for which the certification was granted pursuant to NRS 360.750 or to property in existence and subject to taxation before the certification was granted.

4. As used in this section, a "facility for the generation of electricity from recycled material" is a facility which uses recycled material as its primary fuel including material from:

(a) Industrial or domestic waste, other than hazardous waste, even though it includes a product made from oil, natural gas or coal, such as plastics, asphalt shingles or tires;

(b) Agricultural crops, whether terrestrial or aquatic, and agricultural waste, such as manure and residue from crops; and

(c) Municipal waste, such as sewage and sludge.

↪ The term includes all the equipment in the facility used to process and convert into electricity the energy derived from a recycled material fuel.

361.0775 Partial abatement of taxes imposed on certain structures that use resources efficiently.

1. The Commission on Economic Development shall grant a partial abatement from the tax imposed on real property by this chapter for property which has a building or other structure that is certified at or meets the equivalent of the silver level or higher by a person authorized to grant such certification in accordance with the Leadership in Energy and Environmental



Design Green Building Rating System or its equivalent, as adopted by the Director of the Office of Energy pursuant to NRS 701.217.

2. The partial abatement must be for a duration of not more than 10 years and must not exceed 50 percent of the taxes on real property payable each year pursuant to this chapter.

3. The Commission on Economic Development shall establish by regulation the qualifications and methods to determine eligibility for the abatement.

4. The Commission on Economic Development shall immediately forward a certificate of eligibility for the abatement to:

- (a) The Department of Taxation;
- (b) The Nevada Tax Commission;
- (c) The county treasurer; and
- (d) The county assessor.

361.079 Exemption of qualified systems for heating, cooling or provision of electricity.

1. Except as otherwise provided in subsection 2, for any assessment made on or after July 1, 1983, any value added by a qualified system must be excluded from the assessed value of the building regardless of the date the system was installed.

2. Value added by a qualified system must not be excluded from the assessed value of a commercial or industrial building during any period in which the business that owns the commercial or industrial building is receiving another abatement or exemption from the taxes imposed by this chapter.

3. As used in this section, “qualified system” means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in a residential, commercial or industrial building to heat or cool the building or water used in the building, or to provide electricity used in the building, by using:

- (a) Energy from the wind or from solar devices not thermally insulated from the area where the energy is used;
- (b) Geothermal resources;
- (c) Energy derived from conversion of solid wastes; or
- (d) Waterpower,

↪ which conforms to standards established by regulation of the Department.

701.217 Adoption of Green Building Standards for certain public buildings; adoption of Green Building Rating System for certain purposes.

1. The Director, in consultation with the State Public Works Board and any other interested agency, shall:

(a) In cooperation with representatives of the building and development industry, adopt guidelines establishing Green Building Standards for all occupied public buildings whose construction will be sponsored or financed by this State or a local government.

(b) Adopt a Green Building Rating System, such as the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent, pursuant to subsections 4 and 5. With regard to buildings or structures that are not public buildings or structures, the Green Building Rating System adopted by the Director is to be used only for the purposes of determining eligibility for tax abatements or tax exemptions that are authorized by law to use the Green Building Rating System.

2. Guidelines adopted pursuant to paragraph (a) of subsection 1 must include, without limitation, suggested:

- (a) Requirements for the use of resource-efficient materials for the construction and maintenance of the building;
- (b) Standards for indoor environmental quality;
- (c) Standards for the efficient use of water, including the efficient use of water for landscaping purposes;
- (d) Standards for the efficient use of energy; and
- (e) Requirements for the design and preparation of building lots.

3. If standards equivalent to the Leadership in Energy and Environmental Design Green Building Rating System are adopted, the standards adopted must provide reasonable exceptions based on the size, location and use of the building.

4. Subject to the provisions of subsection 5, the Director shall establish a process for adopting a Green Building Rating System, such as the Leadership in Energy and Environmental Design Green Building Rating System or its equivalent. The process must include, without limitation:

- (a) The gathering and development of scientific data;
- (b) Comments from representatives of the building industry;
- (c) Consensus from representatives of the building industry;
- (d) A method by which the Director, the State Public Works Board and other interested agencies may cast ballots on the proposed standards;
- (e) A pilot program for the purpose of refining the standards; and
- (f) A process by which an aggrieved person may file an appeal of the standards adopted.

5. In adopting a Green Building Rating System pursuant to subsection 4, the Director is not required to adopt and is not limited to using the Leadership in Energy and Environmental Design Green Building Rating System but may adopt an equivalent rating system based on any other nationally recognized standards for green buildings, or any combination of those standards.

Section 3 of chapter 2, Statutes of Nevada 2005, 22nd Special Session:

Sec. 3. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

***1. Except as otherwise provided in subsection 2, each occupied public building whose construction will be sponsored or financed by this State must, when completed, meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in***

*Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act.*

2. *During each biennium, at least two occupied public buildings whose construction will be sponsored or financed by this State must be designated as demonstration projects and must, when completed, meet the requirements to be certified at or meet the equivalent of the silver level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act if:*

*(a) The Director of the Office of Energy, in consultation with the State Board of Examiners and the State Public Works Board, has determined that it is feasible for the buildings to meet such requirements and standards and that it is a cost-effective investment to do so; and*

*(b) The agency or agencies that will occupy the buildings have agreed to allow the buildings to be designated as demonstration projects pursuant to this subsection.*

3. *Each occupied public building whose construction is sponsored or financed by a local government may meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to section 11 of this act.*

4. *As used in this section, "occupied public building" means a public building used primarily as an office space or work area for persons employed by this State or a local government. The term does not include a public building used primarily as a storage facility or warehouse or for similar purposes.*

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Remarks by Assemblymen Kirkpatrick, Smith, and Mabey.

Assemblyman Ocegüera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN KIRKPATRICK:

This amendment sets a structure in place so that we know how the program works. As most of you know, when we passed the bill last session, we did not really have a stringent structure in place. If you look through Sections 1 through 3, it allows for a specific structure, it focuses on energy efficiency within the state of Nevada, and it also allows for the process to move very smoothly so that our local governments and our schools can remain whole and plan for the future, as well.

Sections 4 through 12 are current statute which is already in place. We just made sure we put it all in the same chapter, which is a new chapter. Section 15 is the chapter that addresses retrospectively how we would be working to move forward.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Speaker. I rise in support of this amendment. It brings to you the resolution to the problem that my colleague and I spoke to you about the last time we addressed

this issue on the Floor. It does take care of the structure as my colleague mentioned. It also provides a mechanism to deal with those projects that were in process, retrospectively, by defining a fair structure for determining what projects might retrospectively have the benefits that we had defined in Assembly Bill 3 of the 22nd Special Session. The fiscal impact on our budget, with this amendment, is about 50 percent of what we had projected based on the previous legislation. This amendment goes a long way in meeting our expectations for the State to proceed in having energy efficient buildings and honoring the incentives we think are necessary but also not providing a windfall for developers to make these buildings function as green buildings. I urge your support. There has been a great deal of work by many, many people over the last few weeks, put into this amendment. We really believe that we came up with a solution that is going to work, which is going to do the State right fiscally and also promote the green building projects we desire.

ASSEMBLYMAN MABEY:

Thank you, Madam Speaker. I rise in support of Amendment 1046 to A.B. 621. I feel it is a fair compromise. I feel we have accomplished with this amendment what we intended to do. I certainly appreciate the hard work of my colleagues from Districts 1 and 30, and look forward to supporting this amendment. Thank you.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ocegüera moved that the Assembly suspend all rules, dispense with the reprinting of all bills and resolutions and authorize the Chief Clerk to insert the appropriate amendments, and place all bills and resolutions on third reading and final passage

Motion carried.

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 621.

Bill read third time.

Roll call on Assembly Bill No. 621:

YEAS—39.

NAYS—None.

EXCUSED—Beers, Christensen, Goedhart—3.

Assembly Bill No. 621 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

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

Assembly in recess at 12:47 p.m.

#### ASSEMBLY IN SESSION

At 12:49 p.m.

Mr. Speaker pro Tempore presiding.

Quorum present.

## UNFINISHED BUSINESS

## CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 335.

The following Senate amendment was read:

Amendment No. 1014.

SUMMARY—Makes various changes ~~[related]~~ **relating** to public office.  
(BDR ~~[24-1195]~~ **17-1195**)

AN ACT relating to public office; ~~[prescribing the period during which elected and certain appointed public officers may solicit and accept campaign contributions; requiring the Secretary of State to design a single form to be used for all statements of financial disclosure and reports of campaign contributions and expenditures; requiring that certain reports concerning elections, campaign finance and the financial disclosure of public officers be made available to the public on the Internet;]~~ amending the definition of “gift”; requiring governing bodies of local governments to regulate the activities of lobbyists in their jurisdictions; ~~[requiring that statements of financial disclosure be submitted to filing officers and made available to the public; providing a civil penalty;]~~ and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

~~[ Section 2 of this bill prohibits an elected public officer, or a public officer appointed to fill the unexpired term of an elected public officer, from soliciting or accepting a campaign contribution except during the period beginning 12 months before the date of each general election and ending 3 months after the date of each general election. Section 1 of this bill does not apply to Legislators, the Lieutenant Governor, the Lieutenant Governor Elect, the Governor or the Governor Elect.~~

Existing law requires the Commission on Ethics to design the form used for statements of financial disclosure that are required to be submitted by public officers pursuant to NRS 281.559 and 281.561. (NRS 281.471) Existing law also requires public officers to submit statements of financial disclosure to the Commission on Ethics. (NRS 281.559, 281.561) Section 6 of this bill requires the Secretary of State to design a single form to be used for all statements of financial disclosure and all campaign expenditure and contribution reports. Such form must be available on the Secretary of State’s Internet website. Sections 26 and 27 of this bill require certain public officers and candidates for public office to submit statements of financial disclosure to filing officers. Sections 1, 3-8, 26 and 27 of this bill also require various forms concerning elections, campaign finance and financial disclosure, and the information contained in those completed forms, to be available on the Internet website of the Secretary of State. Section 17 of this bill defines “filing officer” as the Secretary of State, county or city clerk or any other officer authorized by law to receive designations and declarations of

~~candidacy, certificates and acceptances of nominations or any other nomination papers.]~~

Sections 10 and ~~148~~ **16** of this bill provide that costs and expenses associated with the attendance at an event relating to public office or at an event ~~[that benefits an organization that is exempt from the provisions of section 501(c) of the Internal Revenue Code]~~ **to which multiple public officers and others are invited** is not a “gift” for purposes of lobbying and the code of ethical standards for public officers and employees.

Sections 11 and 13 of this bill require the governing bodies of certain local governments to regulate the activities of lobbyists who lobby elected officers or certain appointed officers of those local governments.

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

Section 1. ~~[NRS 293.4687 is hereby amended to read as follows:  
293.4687 1. The Secretary of State shall maintain a website on the Internet for public information maintained, collected or compiled by the Secretary of State that relates to elections, which must include, without limitation:~~

~~(a) The Voters’ Bill of Rights required to be posted on his Internet website pursuant to the provisions of NRS 293.2549;~~

~~(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293.388; and~~

~~(c) All reports on campaign contributions and expenditures submitted to the Secretary of State pursuant to the provisions of NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362.~~

~~2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.~~

~~3. If the information required to be maintained by the Secretary of State pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by a county clerk or city clerk, the Secretary of State may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.] (Deleted by amendment.)~~

Sec. 2. ~~[Chapter 294A of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. It is unlawful for an elected public officer or a public officer appointed to fill the unexpired term of an elected public officer to solicit or accept any contribution, or solicit or accept a commitment to make such a contribution, except during the period:~~

~~(a) Beginning 12 months before the date of each general election; and~~

~~(b) Ending 3 months after the date of each general election.~~

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

~~(a) "General election" means:~~

~~(1) If the elected public officer or public officer appointed to fill the unexpired term of an elected public officer is a city official, the general city election held pursuant to NRS 203C.140.~~

~~(2) If the elected public officer or public officer appointed to fill the unexpired term of an elected public officer is not a city official, the general election held pursuant to NRS 203.12755.~~

~~(b) "Public officer":~~

~~(1) Except as otherwise provided in subparagraph (2), means a person elected or appointed to a position which:~~

~~(I) Is established by the Constitution or a statute of this State, or by a charter or ordinance of a political subdivision of this State; and~~

~~(II) Involves the continuous exercise, as part of the regular and permanent administration of the government, of a public power, trust or duty.~~

~~(2) Does not include any person who is subject to the provisions of NRS 294A.300.~~ (Deleted by amendment.)

Sec. 3. ~~[NRS 294A.128 is hereby amended to read as follows:~~

~~294A.128 — 1. In addition to complying with the requirements set forth in NRS 294A.120, 294A.200 and 294A.360, a candidate who receives a loan which is guaranteed by a third party, forgiveness of a loan previously made to the candidate or a written commitment for a contribution shall, for the period covered by the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360, report:~~

~~(a) If a loan received by the candidate was guaranteed by a third party, the amount of the loan and the name and address of each person who guaranteed the loan;~~

~~(b) If a loan received by the candidate was forgiven by the person who made the loan, the amount that was forgiven and the name and address of the person who forgave the loan; and~~

~~(c) If the candidate received a written commitment for a contribution, the amount committed to be contributed and the name and address of the person who made the written commitment.~~

~~2. The reports required by subsection 1 must be submitted on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.~~

~~3. The reports required by subsection 1 must be filed in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360.~~

~~4. A county clerk who receives from a candidate for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, a report pursuant to subsection 1 shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.~~

~~5.—Within a reasonable time after the Secretary of State receives a report or copy of a report pursuant to this section, the Secretary of State shall post the report on his Internet website.}] (Deleted by amendment.)~~

Sec. 4. ~~[NRS 294A.230 is hereby amended to read as follows:~~

~~294A.230 1. Each committee for political action shall, before it engages in any activity in this State, register with the Secretary of State on forms supplied by him.~~

~~2.—The form must require:~~

- ~~(a) The name of the committee;~~
- ~~(b) The purpose for which it was organized;~~
- ~~(c) The names, addresses and telephone numbers of its officers;~~
- ~~(d) If the committee for political action is affiliated with any other organizations, the name, address and telephone number of each organization;~~
- ~~(e) The name, address and telephone number of its resident agent; and~~
- ~~(f) Any other information deemed necessary by the Secretary of State.~~

~~3.—A committee for political action shall file with the Secretary of State an amended form for registration within 30 days after any change in the information contained in the form for registration.~~

~~4.—The Secretary of State shall include on his Internet website [the]:~~

- ~~(a) The information required pursuant to subsection 2—[.] within a reasonable time after he receives the information; and~~
- ~~(b) The form for registering a committee for political action.}] (Deleted by amendment.)~~

Sec. 5. ~~[NRS 294A.250 is hereby amended to read as follows:~~

~~294A.250 1. Each committee for the recall of a public officer shall register with the Secretary of State, on a form provided by him. Each form must include:~~

- ~~[1.] (a) The name of the committee;~~
- ~~[2.] (b) The purpose for which it was organized;~~
- ~~[3.] (c) The names and addresses of its officers; and~~
- ~~[4.] (d) If the committee is organized and located outside this State, the name and address of its resident agent.~~

~~2.—The Secretary of State shall include on his Internet website the form for registering a committee for the recall of a public officer and, within a reasonable time after receiving the information, the information required to be included on the form by each committee for the recall of a public officer pursuant to subsection 1.}] (Deleted by amendment.)~~

Sec. 6. ~~[NRS 294A.373 is hereby amended to read as follows:~~

~~294A.373 1. The Secretary of State shall design a single form to be used for all [reports]:~~

- ~~(a) Reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362 [.] ; and~~



~~(b) Financial disclosure statements that are required to be filed pursuant to NRS 281.559 and 281.561.~~

~~2. The form designed by the Secretary of State pursuant to this section must only request information specifically required by statute.~~

~~3. Upon request, the Secretary of State shall provide a copy of the form designed pursuant to this section to each person, committee, political party and group that is required to file a report or statement described in subsection 1. The Secretary of State shall also make the form designed pursuant to this section available on his Internet website.~~

~~4. The Secretary of State must obtain the advice and consent of the Legislative Commission before [providing].~~

~~(a) Providing a copy of a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party or group that is required to use the form [.] and~~

~~(b) Making the form designed or revised by the Secretary of State pursuant to this section available on his Internet website.] (Deleted by amendment.)~~

Sec. 7. ~~[NRS 294A.380 is hereby amended to read as follows:~~

~~294A.380 1. The Secretary of State may adopt and promulgate regulations, prescribe forms in accordance with the provisions of this chapter and take such other actions as are necessary for the implementation and effective administration of the provisions of this chapter.~~

~~2. For the purposes of implementing and administering the provisions of this chapter regulating committees for political action:~~

~~(a) The Secretary of State shall, in determining whether an entity or group is a committee for political action, consider a group's or entity's division or separation into units, sections or smaller groups only if it appears that such division or separation was for a purpose other than for avoiding the reporting requirements of this chapter.~~

~~(b) The Secretary of State shall, in determining whether an entity or group is a committee for political action, disregard any action taken by a group or entity that would otherwise constitute a committee for political action if it appears such action is taken for the purpose of avoiding the reporting requirements of this chapter.~~

~~3. The Secretary of State shall:~~

~~(a) Make available on his Internet website any form he prescribes pursuant to subsection 1; and~~

~~(b) Within a reasonable time after he receives any such completed form, post the completed form on his Internet website.] (Deleted by amendment.)~~

Sec. 8. ~~[NRS 294A.400 is hereby amended to read as follows:~~

~~294A.400 The Secretary of State shall, within 30 days after receipt of the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270 and 294A.280, prepare and make available for public inspection, including, without limitation, on his Internet website, a compilation of:~~

~~1.—The total campaign contributions, the contributions which are in excess of \$100 and the total campaign expenses of each of the candidates from whom reports of those contributions and expenses are required.~~

~~2.—The total amount of loans to a candidate guaranteed by a third party, the total amount of loans made to a candidate that have been forgiven and the total amount of written commitments for contributions received by a candidate.~~

~~3.—The contributions made to a committee for the recall of a public officer in excess of \$100.~~

~~4.—The expenditures exceeding \$100 made by a:~~

~~(a) Person on behalf of a candidate other than himself.~~

~~(b) Person or group of persons on behalf of or against a question or group of questions on the ballot.~~

~~(c) Group of persons advocating the election or defeat of a candidate.~~

~~(d) Committee for the recall of a public officer.~~

~~5.—The contributions in excess of \$100 made to:~~

~~(a) A person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group.~~

~~(b) A person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot.~~

~~(c) A committee for political action, political party or committee sponsored by a political party which makes an expenditure on behalf of a candidate or group of candidates.] (Deleted by amendment.)~~

Sec. 9. ~~[NRS 294A.420 is hereby amended to read as follows:~~

~~294A.420—1.—If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280 or 294A.360 has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.~~

~~2.—Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.300, 294A.310, 294A.320 or 294A.360 or section 1 of this act is subject to a civil penalty of not more than \$5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.~~

~~3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:~~

~~(a) If the report is not more than 7 days late, \$25 for each day the report is late.~~

~~(b) If the report is more than 7 days late but not more than 15 days late, \$50 for each day the report is late.~~

~~(c) If the report is more than 15 days late, \$100 for each day the report is late.~~

~~\* A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of \$100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.~~

~~4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:~~

~~(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and~~

~~(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.} (Deleted by amendment.)~~

Sec. 10. NRS 218.908 is hereby amended to read as follows:

218.908 1. "Gift" means a payment, subscription, advance, forbearance, rendering or deposit of money, services or anything of value unless consideration of equal or greater value is received.

2. "Gift" does not include ~~{a}~~:

(a) A political contribution of money or services related to a political campaign ~~{, a}~~;

(b) A ~~{commercially reasonable}~~ loan or other transaction made in the ordinary course of business ~~{, }~~;

(c) The cost of entertainment, including the ~~for~~

~~(c) The~~ cost of food or beverages ~~{, or anything}~~ ~~{, }~~ or the costs and expenses associated with the attendance of a member of the Legislative Branch, or the spouse or guest of such a member of the Legislative Branch, at an event to which multiple members of the Legislative Branch and others are invited;

(d) Anything of value received from a member of the recipient's immediate family or from a relative of the recipient or his spouse ~~{within the}~~ ~~{third}~~ ~~{fifth degree of consanguinity}~~ or from the spouse of any such relative; or

(e) ~~{Costs and expenses associated with the attendance of a member of the Legislative Branch, or the spouse or guest of such a member of the Legislative Branch, at an event relating to public office or at an event that~~

~~benefits an organization which the Secretary of the Treasury has determined is an exempt organization pursuant to the provisions of section 501(c) of the Internal Revenue Code, 26 U.S.C. § 501(c).~~ **Anything of value received from a person with whom the recipient has an existing business or professional relationship.**

Sec. 11. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. Each board of county commissioners shall enact ordinances that regulate the activities of lobbyists who lobby:**

- (a) Elected officers of the county; or**
- (b) Appointed officers of the county who the board of county commissioners has determined have policymaking authority.**

**2. The ordinances required pursuant to subsection 1 must set forth:**

- (a) Registration and reporting requirements for such lobbyists and provide that reports submitted by lobbyists are open to public inspection.**
- (b) Standards for elected and appointed officers of the county relating to the acceptance and disclosure of contributions from persons who have a personal interest in a matter before the elected or appointed officer.**

Sec. 12. NRS 245.110 is hereby amended to read as follows:

245.110 The provisions of the Nevada Ethics in Government Law , ~~{}~~ NRS 281.411 to 281.581, inclusive ~~{}~~ , ~~and {sections 17 and 18}~~ **section 16 of this act** do not prohibit any county officer from purchasing the warrants of the State or of any other county, or to prevent any county officer from selling or transferring such warrants or scrip as he may receive for his services, but none other.

Sec. 13. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. Each city council shall adopt ordinances that regulate the activities of lobbyists who lobby:**

- (a) Elected officers of the city; or**
- (b) Appointed officers of the city whom the city council has determined have policymaking authority.**

**2. The ordinances required pursuant to subsection 1 must set forth:**

- (a) Registration and reporting requirements for such lobbyists and provide that reports submitted by lobbyists are open to public inspection.**
- (b) Standards for elected and appointed officers of the city relating to the acceptance and disclosure of contributions from persons who have a personal interest in a matter before the elected or appointed officer.**

Sec. 14. NRS 268.380 is hereby amended to read as follows:

268.380 The provisions of the Nevada Ethics in Government Law , ~~{}~~ NRS 281.411 to 281.581, inclusive ~~{}~~ , ~~and {sections 17 and 18}~~ **section 16 of this act** do not prohibit any city officer from purchasing the warrants of the State or of any other city or county, or prevent any city officer from selling or transferring such warrants or scrip as he may receive for his services, but none other.

Sec. 15. NRS 269.070 is hereby amended to read as follows:

269.070 The provisions of the Nevada Ethics in Government Law , {~~the provisions of the Nevada Ethics in Government Law , {NRS 281.411 to 281.581, inclusive {~~and {sections 17 and 18}~~ section 16~~ of this act do not prohibit any town officer from purchasing the warrants of the State or of any other city, town or county, or prevent any town officer from selling or transferring such warrants or scrip as he may receive for his services, but none other.

Sec. 16. Chapter 281 of NRS is hereby amended by adding thereto ~~the provisions set forth as sections 17 and 18 of this act.~~ a new section to read as follows:

1. "Gift" means a payment, subscription, advance, forbearance, rendering or deposit of money, services or anything of value unless consideration of equal or greater value is received.

2. "Gift" does not include:

(a) A political contribution of money or services related to a political campaign;

(b) A loan or other transaction made in the ordinary course of business;

(c) The cost of entertainment, including the cost of food or beverages or the costs and expenses associated with the attendance of a public officer, or the spouse or guest of such a public officer, at an event to which multiple public officers and others are invited;

(d) Anything of value received from a member of the recipient's immediate family or from a relative of the recipient or his spouse or from the spouse of any such relative; or

(e) Anything of value received from a person with whom the recipient has an existing business or professional relationship.

Sec. 17. ~~{~~"Filing officer" means the Secretary of State, county or city clerk or any other officer authorized by law to receive designations and declarations of candidacy, certificates and acceptances of nomination or any other nomination papers.~~ (Deleted by amendment.)~~

Sec. 18. ~~{1. "Gift" means a payment, subscription, advance, forbearance, rendering or deposit of money, services or anything of value unless consideration of equal or greater value is received.~~

~~2. "Gift" does not include:~~

~~(a) A political contribution of money or services related to a political campaign;~~

~~(b) A commercially reasonable loan made in the ordinary course of business;~~

~~(c)~~

~~The cost of food or beverages;~~

~~(d) Anything of value received from a member of the recipient's immediate family or from a relative of the recipient or his spouse within the fifth degree of consanguinity or from the spouse of any such relative; or~~

~~(e) Costs and expenses associated with the attendance of a public officer, or the spouse or guest of a public officer, at an event relating to public office~~

~~or at an event that benefits an organization which the Secretary of the Treasury has determined is an exempt organization pursuant to the provisions of section 501(c) of the Internal Revenue Code, 26 U.S.C. § 501(c).~~ (Deleted by amendment.)

Sec. 19. NRS 281.005 is hereby amended to read as follows:

281.005 As used in this chapter:

1. Except as limited for the purposes of NRS 281.411 to 281.581, inclusive, ~~and sections 17 and 18~~ **section 16 of this act**, “public officer” means a person elected or appointed to a position which:

(a) Is established by the Constitution or a statute of this State, or by a charter or ordinance of a political subdivision of this State; and

(b) Involves the continuous exercise, as part of the regular and permanent administration of the government, of a public power, trust or duty.

2. “Special use vehicle” means any vehicle designed or used for the transportation of persons or property off paved highways.

Sec. 20. NRS 281.411 is hereby amended to read as follows:

281.411 NRS 281.411 to 281.581, inclusive, ~~and sections 17 and 18~~ **section 16 of this act** may be cited as the Nevada Ethics in Government Law.

Sec. 21. NRS 281.431 is hereby amended to read as follows:

281.431 As used in NRS 281.411 to 281.581, inclusive, ~~and sections 17 and 18~~ **section 16 of this act**, unless the context otherwise requires, the words and terms defined in NRS 281.432 to 281.4375, inclusive, ~~and sections 17 and 18~~ **section 16 of this act** have the meanings ascribed to them in those sections.

Sec. 22. NRS 281.4647 is hereby amended to read as follows:

281.4647 1. Each county whose population is more than 10,000 and each city whose population is more than 10,000 and that is located within such a county shall pay an assessment for the costs incurred by the Commission each biennium in carrying out its functions pursuant to NRS 281.411 to 281.581, inclusive ~~[-], and sections 17 and 18~~ **section 16 of this act**. The total amount of money to be derived from assessments paid pursuant to this subsection for a biennium must be determined by the Legislature in the legislatively approved budget of the Commission for that biennium. The assessments must be apportioned among each such city and county based on the proportion that the total population of the city or the total population of the unincorporated area of the county bears to the total population of all such cities and the unincorporated areas of all such counties in this State.

2. On or before July 1 of each odd-numbered year, the Executive Director shall, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, determine for the next ensuing biennium the amount of the assessments due for each city and county that is required to pay an assessment pursuant to subsection 1. The assessments must be paid to the Commission in semiannual installments that are due on or before August 1 and February 1 of each year of the biennium. The Executive Director shall

send out a billing statement to each such city or county which states the amount of the semiannual installment payment due from the city or county.

3. Any money that the Commission receives pursuant to subsection 2:

(a) Must be deposited in the State Treasury, accounted for separately in the State General Fund and credited to the budget account for the Commission;

(b) May only be used to carry out NRS 281.411 to 281.581, inclusive, ~~and sections 17 and 18 of this act~~ **section 16 of this act** and only to the extent authorized for expenditure by the Legislature; and

(c) Does not revert to the State General Fund at the end of any fiscal year.

4. If any installment payment is not paid on or before the date on which it is due, the Executive Director shall make reasonable efforts to collect the delinquent payment. If the Executive Director is not able to collect the arrearage, he shall submit a claim for the amount of the unpaid installment payment to the Department of Taxation. If the Department of Taxation receives such a claim, the Department shall deduct the amount of the claim from money that would otherwise be allocated from the Local Government Tax Distribution Account to the city or county that owes the installment payment and shall transfer that amount to the Commission.

5. As used in this section, "population" means the current population estimate for that city or county as determined and published by the Department of Taxation and the demographer employed pursuant to NRS 360.283.

Sec. 23. ~~[NRS 281.481 is hereby amended to read as follows:~~

~~281.481—A code of ethical standards is hereby established to govern the conduct of public officers and employees:~~

~~1.—A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend [improperly] to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.~~

~~2.—A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person. As used in this subsection:~~

~~(a) "Commitment in a private capacity to the interests of that person" has the meaning ascribed to "commitment in a private capacity to the interests of others" in subsection 8 of NRS 281.501.~~

~~(b) "Unwarranted" means without justification or adequate reason.~~

~~3.—A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and any private business in which he has a significant pecuniary interest.~~

~~4.—A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.~~

~~5.—If a public officer or employee acquires, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, he shall not use the information to further the pecuniary interests of himself or any other person or business entity.~~

~~6.—A public officer or employee shall not suppress any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.~~

~~7.—A public officer or employee, other than a member of the Legislature, shall not use governmental time, property, equipment or other facility to benefit his personal or financial interest. This subsection does not prohibit:~~

~~(a) A limited use of governmental property, equipment or other facility for personal purposes if:~~

~~(1) The public officer who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;~~

~~(2) The use does not interfere with the performance of his public duties;~~

~~(3) The cost or value related to the use is nominal; and~~

~~(4) The use does not create the appearance of impropriety;~~

~~(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or~~

~~(c) The use of telephones or other means of communication if there is not a special charge for that use.~~

~~→ If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.~~

~~8.—A member of the Legislature shall not:~~

~~(a) Use governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person. This paragraph does not prohibit:~~

~~(1) A limited use of state property and resources for personal purposes if:~~

~~(I) The use does not interfere with the performance of his public duties;~~

~~(II) The cost or value related to the use is nominal; and~~

~~(III) The use does not create the appearance of impropriety;~~

~~(2) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or~~



~~(3) The use of telephones or other means of communication if there is not a special charge for that use.~~

~~(b) Require or authorize a legislative employee, while on duty, to perform personal services or assist in a private activity, except:~~

~~(1) In unusual and infrequent situations where the employee's service is reasonably necessary to permit the Legislator or legislative employee to perform his official duties; or~~

~~(2) Where such service has otherwise been established as legislative policy.~~

~~9.—A public officer or employee shall not attempt to benefit his personal or financial interest through the influence of a subordinate.~~

~~10.—A public officer or employee shall not seek other employment or contracts through the use of his official position.] (Deleted by amendment.)~~

Sec. 24. ~~[NRS 281.541 is hereby amended to read as follows:~~

~~281.541—1.—Any department, board, commission or other agency of the State or the governing body of a county or an incorporated city may establish a specialized or local ethics committee to complement the functions of the Commission. A specialized or local ethics committee may:~~

~~(a) Establish a code of ethical standards suitable for the particular ethical problems encountered in its sphere of activity. The standards may not be less restrictive than the statutory ethical standards.~~

~~(b) Render an opinion upon the request of any public officer or employee of its own organization or level seeking an interpretation of its ethical standards on questions directly related to the propriety of his own future official conduct or refer the request to the Commission. Any public officer or employee subject to the jurisdiction of the committee shall direct his inquiry to that committee instead of the Commission.~~

~~[(c) Require the filing of statements of financial disclosure by public officers on forms prescribed by the committee or the city clerk if the form has been:~~

~~(1) Submitted, at least 60 days before its anticipated distribution, to the Commission for review; and~~

~~(2) Upon review, approved by the Commission.]~~

~~2.—A specialized or local ethics committee shall not attempt to interpret or render an opinion regarding the statutory ethical standards.~~

~~3.—Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:~~

~~(a) The public officer or employee acts in contravention of the opinion; or~~

~~(b) The requester discloses the content of the opinion.] (Deleted by amendment.)~~

Sec. 25. ~~[NRS 281.552 is hereby amended to read as follows:~~

~~281.552—1.—Every public officer shall acknowledge that he has received, read and understands the statutory ethical standards. The acknowledgment~~

~~must be on a form prescribed by the Commission and must accompany the first statement of financial disclosure that the public officer is required to file with the [Commission] filing officer pursuant to NRS 281.559 or [the Secretary of State pursuant to NRS] 281.561.~~

~~2. The [Commission and the Secretary of State] filing officer shall retain an acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.~~

~~3. Willful refusal to execute and file the acknowledgment required by this section constitutes nonfeasance in office and is a ground for removal pursuant to NRS 283.440.] (Deleted by amendment.)~~

Sec. 26. ~~[NRS 281.559 is hereby amended to read as follows:~~

~~281.559 1. Except as otherwise provided in subsection 2, if a public officer who was appointed to the office for which he is serving is entitled to receive annual compensation of \$6,000 or more for serving in that office, he shall file with the [Commission] filing officer a statement of financial disclosure, as follows:~~

~~(a) A public officer appointed to fill the unexpired term of an elected or appointed public officer shall file a statement of financial disclosure within 30 days after his appointment.~~

~~(b) Each public officer appointed to fill an office shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires.~~

~~2. If a person is serving in a public office for which he is required to file a statement pursuant to subsection 1, he may use the statement he files for that initial office to satisfy the requirements of subsection 1 for every other public office to which he is appointed and in which he is also serving.~~

~~3. A judicial officer who is appointed to fill the unexpired term of a predecessor or to fill a newly created judgeship shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281.571.~~

~~4. [The Commission] Filing officers other than the Secretary of State shall provide written notification to the Secretary of State of the public officers who failed to file the statements of financial disclosure required by subsection 1 or who failed to file those statements in a timely manner. The notice must be sent within 30 days after the deadlines set forth in subsection 1 and must include:~~

~~(a) The name of each public officer who failed to file his statement of financial disclosure within the period before the notice is sent;~~

~~(b) The name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent;~~

~~(c) For the first notice sent after the public officer filed his statement of financial disclosure, the name of each public officer who filed his statement~~

~~of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent; and~~

~~(d) For each public officer listed in paragraph (c), the date on which the statement of financial disclosure was due and the date on which the public officer filed the statement.~~

~~5. In addition to the notice provided pursuant to subsection 4, the [Commission] filing officer shall notify the Secretary of State of each public officer who files a statement of financial disclosure more than 30 days after the deadlines set forth in subsection 1. The notice must include the information described in paragraphs (c) and (d) of subsection 4.~~

~~6. A statement of financial disclosure shall be deemed to be filed with the [Commission:] filing officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On the date that it was received by the [Commission] filing officer if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~7. The filing officer shall:~~

~~(a) Maintain files of statements of financial disclosure filed pursuant to this section and make the statements available for public inspection; and~~

~~(b) Submit a copy of each statement of financial disclosure filed pursuant to this section to the Secretary of State within 10 working days after receiving it.~~

~~8. Within a reasonable time after the Secretary of State receives a statement of financial disclosure or a copy of a statement of financial disclosure pursuant to this section, the Secretary of State shall post the statement of financial disclosure on his Internet website.~~

~~9. The Secretary of State shall prescribe, by regulation, procedures for the submission of statements of financial disclosure filed pursuant to this section.] (Deleted by amendment.)~~

~~Sec. 27. [NRS 281.561 is hereby amended to read as follows:~~

~~281.561 1. Each candidate for public office who will be entitled to receive annual compensation of \$6,000 or more for serving in the office that he is seeking and, except as otherwise provided in subsection 2, each public officer who was elected to the office for which he is serving shall file with the [Secretary of State] filing officer a statement of financial disclosure, as follows:~~

~~(a) A candidate for nomination, election or reelection to public office shall file a statement of financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office; and~~

~~(b) Each public officer shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires.~~

~~2. A person elected pursuant to NRS 548.285 to the office of supervisor of a conservation district is not required to file a statement of financial disclosure relative to that office pursuant to subsection 1.~~

~~3. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281.571.~~

~~4. A statement of financial disclosure shall be deemed to be filed with the [Secretary of State:] filing officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On the date that it was received by the [Secretary of State:] filing officer if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~5. The statement of financial disclosure filed pursuant to this section must be filed on the form prescribed by the [Commission:] Secretary of State pursuant to NRS [281.471.] 294A.373.~~

~~6. The filing officer shall:~~

~~(a) Maintain files of statements of financial disclosure filed pursuant to this section and make the statements available for public inspection; and~~

~~(b) Submit a copy of each statement of financial disclosure filed pursuant to this section to the Secretary of State within 10 working days after receiving it.~~

~~7. Within a reasonable time after the Secretary of State receives a statement of financial disclosure or a copy of a statement of financial disclosure pursuant to this section, the Secretary of State shall post the statement of financial disclosure on his Internet website.~~

~~8. The Secretary of State shall prescribe, by regulation, procedures for the submission of statements of financial disclosure filed pursuant to this section. [, maintain files of such statements and make the statements available for public inspection.] (Deleted by amendment.)~~

~~Sec. 28. [NRS 281.571 is hereby amended to read as follows:~~

~~281.571 1. Statements of financial disclosure, [as approved pursuant to NRS 281.541 or] in such form as the [Commission otherwise prescribes,] Secretary of State prescribes pursuant to NRS 294A.373, must contain the following information concerning the candidate for public office or public officer:~~

~~(a) His length of residence in the State of Nevada and the district in which he is registered to vote.~~

~~(b) Each source of his income, or that of any member of his household who is 18 years of age or older. No listing of individual clients, customers or patients is required, but , if that is the case, a general source such as "professional services" must be disclosed.~~

~~(c) A list of the specific location and particular use of real estate, other than a personal residence:~~

~~(1) In which he or a member of his household has a legal or beneficial interest;~~

~~(2) Whose fair market value is \$2,500 or more; and~~

~~(3) That is located in this State or an adjacent state.~~

~~(d) The name of each creditor to whom he or a member of his household owes \$5,000 or more, except for:~~

~~(1) A debt secured by a mortgage or deed of trust of real property which is not required to be listed pursuant to paragraph (c); and~~

~~(2) A debt for which a security interest in a motor vehicle for personal use was retained by the seller.~~

~~(e) If the candidate for public office or public officer has received gifts in excess of an aggregate value of \$200 from a donor during the preceding taxable year, a list of all such gifts, including the identity of the donor and value of each gift, except:~~

~~(1) A gift received from a person who is related to the candidate for public office or public officer within the third degree of consanguinity or affinity;~~

~~(2) Ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial interest in the legislative, administrative or political action of the candidate for public office or public officer;~~

~~(f) A list of each business entity with which he or a member of his household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity;~~

~~(g) A list of all public offices presently held by him for which this statement of financial disclosure is required.~~

~~2. The [Commission] filing officer shall distribute or cause to be distributed the forms required for such a statement to each candidate for public office and public officer who is required to file one. The [Commission] filing officer is not responsible for the costs of producing or distributing a form for filing statements of financial disclosure which is prescribed by the Secretary of State pursuant to [subsection 1 of NRS 281.541.] NRS 294A.373.~~

~~3. As used in this section:~~

~~(a) "Business entity" means an organization or enterprise operated for economic gain, including a proprietorship, partnership, firm, business, trust, joint venture, syndicate, corporation or association;~~

~~(b) "Household" includes:~~

~~(1) The spouse of a candidate for public office or public officer;~~

~~(2) A person who does not live in the same home or dwelling, but who is dependent on and receiving substantial support from the candidate for public office or public officer; and~~

~~(3) A person who lived in the home or dwelling of the candidate for public office or public officer for 6 months or more in the year immediately preceding the year in which the candidate for public office or public officer files the statement of financial disclosure.] (Deleted by amendment.)~~

Sec. 29. ~~[NRS 281.573 is hereby amended to read as follows:~~

~~281.573 1. Except as otherwise provided in subsection 2, statements of financial disclosure required by the provisions of NRS 281.559 [,] and 281.561 [and 281.571] must be retained by the [Commission or Secretary of State] filing officer for 6 years after the date of filing.~~

~~2. For public officers who serve more than one term in either the same public office or more than one public office, the period prescribed in subsection 1 begins on the date of the filing of the last statement of financial disclosure for the last public office held.] (Deleted by amendment.)~~

Sec. 30. ~~[NRS 281.574 is hereby amended to read as follows:~~

~~281.574 1. A list of each public officer who is required to file a statement of financial disclosure must be submitted electronically to the [Commission and to the Secretary of State,] filing officer, in a form prescribed by the [Commission,] Secretary of State, on or before December 1 of each year by:~~

~~(a) [Each county clerk for all public officers of the county and other local governments within the county other than cities;~~

~~(b) Each city clerk for all public officers of the city;~~

~~(c) [The Director of the Legislative Counsel Bureau for all public officers of the Legislative Branch; and~~

~~[(d)] (b) The Chief of the Budget Division of the Department of Administration for all public officers of the Executive Branch.~~

~~2. [The Secretary of State, each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the Commission, and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk] Each filing officer other than the Secretary of State shall submit electronically to the Secretary of State, in a form prescribed by the [Commission,] Secretary of State, a list of each candidate for public office who filed a declaration of candidacy or acceptance of candidacy with that filing officer within 10 days after the last day to qualify as a candidate for the applicable office.] (Deleted by amendment.)~~

Sec. 31. ~~[NRS 281.575 is hereby amended to read as follows:~~

~~281.575 [The Secretary of State and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, or city clerk] Each filing officer who receives from a candidate for public office a declaration of candidacy, acceptance of candidacy or certificate of candidacy shall give to the candidate the form prescribed by the [Commission] Secretary of State pursuant to NRS 294A.373 for the making of a statement of financial disclosure, accompanied by instructions on how to complete the form, where it must be filed and the time by which it must be filed.] (Deleted by amendment.)~~

Assemblyman Conklin moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 335.

Remarks by Assemblyman Conklin.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 64.

The following Senate amendment was read:

Amendment No. 827.

AN ACT relating to traffic laws; making various changes concerning the penalties imposed by a court when a defendant fails to properly secure a child in a child restraint system in a vehicle; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a person who transports a child who is less than 6 years of age and who weighs 60 pounds or less to secure the child in a child restraint system. A court is required to order a defendant who did not comply with that requirement to complete a program of training in the installation and use of child restraint systems, unless the defendant is not a resident of the State of Nevada. The court is further required to impose a fine or require the defendant to perform community service, but may waive a portion of the fine or community service if the program of training certifies to the court that the defendant completed the program of training. This bill deletes the requirement that a court order a defendant to undergo a program of training and requires the court to provide the defendant with a referral list of available programs of training. This bill also increases the amount of the fine or hours of community service a court may impose for failing to properly secure the child in a child restraint system. Further, for a first offense, a defendant may have the fine or hours of community service waived if he successfully completes a program of training recommended by the court and presents proof of completion of the training to the court. For a second offense, a defendant may have the fine or hours of community service reduced by half if he **did not have the fine or hours of community service waived for his first offense and he** successfully completes a program of training recommended by the court and presents proof of completion of the training to the court.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 484.474 is hereby amended to read as follows:

484.474 1. Except as otherwise provided in subsection 7, any person who is transporting a child who is less than 6 years of age and who weighs 60 pounds or less in a motor vehicle operated in this State which is equipped to carry passengers shall secure the child in a child restraint system which:

(a) Has been approved by the United States Department of Transportation in accordance with the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. Part 571;

(b) Is appropriate for the size and weight of the child; and

(c) Is installed within and attached safely and securely to the motor vehicle:

(1) In accordance with the instructions for installation and attachment provided by the manufacturer of the child restraint system; or

(2) In another manner that is approved by the National Highway Traffic Safety Administration.

2. If a defendant pleads or is found guilty of violating the provisions of subsection 1, the court shall:

(a) ~~In addition to any other penalty imposed by law, order the defendant to complete a program of training conducted by a person or agency approved by the Department of Public Safety in the installation and use of child restraint systems, except that the court shall waive the requirements of this paragraph if the defendant is not a resident of the State of Nevada; and~~

~~(b) Except as otherwise provided in this paragraph, order the defendant to pay a fine of not less than \$50 nor more than \$500, or order the defendant to perform not less than 8 hours nor more than 50 hours of community service. The court may:~~

~~(1) For a first offense by a defendant who completes a program of training described in paragraph (a), waive any amount of the fine or any amount of the community service; and~~

~~(2) For a second or subsequent offense by a defendant who completes a program of training described in paragraph (a), waive any amount of the fine in excess of \$50 or any amount of the community service in excess of 8 hours,~~

~~→ if the person or agency which provided the program of training to the defendant certifies to the court that the defendant has completed the program of training required by paragraph (a), has paid the fee, if any, established for the program pursuant to subsection 4 and has presented for inspection by the person or agency an installed child restraint system that satisfies the provisions of subsection 1. The provisions of this paragraph do not authorize the waiver of any fee established by a person or agency pursuant to subsection 4.] For a first offense, order the defendant to pay a fine of not less than \$100 nor more than \$500 or order the defendant to perform not less than 10 hours nor more than 50 hours of community service;~~

~~(b) For a second offense, order the defendant to pay a fine of not less than \$500 nor more than \$1000 or order the defendant to perform not less than 50 hours nor more than 100 hours of community service; and~~

~~(c) For a third or subsequent offense, suspend the driver's license of the defendant for not less than 30 days nor more than 180 days.~~

3. ~~The~~ At the time of sentencing, the court shall ~~make available~~ provide the defendant with a list of persons and agencies approved by the



Department of Public Safety to conduct programs of training and perform inspections of child restraint systems. The list must include, without limitation, an indication of the fee, if any, established by the person or agency pursuant to subsection 4. *If, within 60 days after sentencing, a defendant provides the court with proof of satisfactory completion of a program of training provided for in this subsection, the court shall:*

*(a) If the defendant was sentenced pursuant to paragraph (a) of subsection 2, waive the fine or community service previously imposed; or*

*(b) If the defendant was sentenced pursuant to paragraph (b) of subsection 2, reduce by one-half the fine or community service previously imposed.*

↪ A defendant is only eligible for a reduction of a fine or community service pursuant to paragraph (b) if he has not had a fine or community service waived pursuant to paragraph (a).

4. A person or agency approved by the Department of Public Safety to conduct programs of training and perform inspections of child restraint systems may, in cooperation with the Department, establish a fee to be paid by defendants who are ordered to complete a program of training. The amount of the fee, if any:

(a) Must be reasonable; and

(b) May, if a defendant desires to acquire a child restraint system from such a person or agency, include the cost of a child restraint system provided by the person or agency to the defendant.

↪ A program of training may not be operated for profit.

5. For the purposes of NRS 483.473, a violation of this section is not a moving traffic violation.

6. A violation of this section may not be considered:

(a) Negligence in any civil action; or

(b) Negligence or reckless driving for the purposes of NRS 484.377.

7. This section does not apply:

(a) To a person who is transporting a child in a means of public transportation, including a taxi, school bus or emergency vehicle.

(b) When a physician determines that the use of such a child restraint system for the particular child would be impractical or dangerous because of such factors as the child's weight, physical unfitness or medical condition. In this case, the person transporting the child shall carry in the vehicle the signed statement of the physician to that effect.

8. As used in this section, "child restraint system" means any device that is designed for use in a motor vehicle to restrain, seat or position children. The term includes, without limitation:

(a) Booster seats and belt-positioning seats that are designed to elevate or otherwise position a child so as to allow the child to be secured with a safety belt;

(b) Integrated child seats; and

(c) Safety belts that are designed specifically to be adjusted to accommodate children.

Assemblyman Atkinson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 64.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 239.

The following Senate amendment was read:

Amendment No. 844.

SUMMARY—Requires a ~~vehicle dealer~~ **provider of a vehicle service contract** to notify the buyer of ~~the~~ **the** vehicle service contract if the provider ~~of the vehicle service contract~~ ceases doing business in this State. (BDR ~~43-971~~) **57-971**)

AN ACT relating to motor vehicles; requiring a ~~vehicle dealer~~ **provider of a vehicle service contract** to notify the buyer of a vehicle service contract if the provider ~~of the vehicle service contract~~ ceases doing business in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Section 1 of this~~ **This** bill requires a ~~vehicle dealer~~ **provider of a vehicle service contract** to notify the buyer of a vehicle service contract in writing if the provider ~~of the vehicle service contract~~ ceases doing business in this State.

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

Section 1. Chapter ~~482~~ **690C** of NRS is hereby amended by adding thereto a new section to read as follows:

*1. A ~~vehicle dealer who has sold~~ **provider who, whether directly or through a vehicle dealer licensed pursuant to NRS 482.325, enters into a vehicle service contract ~~to~~ with** a buyer shall, within 30 days after ~~receiving notice that the provider of the vehicle service contract has ceased doing~~ **ceasing doing** business in this State, notify ~~the~~ **any** buyer **who purchased such a contract** in writing of the fact that the provider has ceased doing business in this State if the specified period of the vehicle service contract has not yet expired.*

*2. The provisions of this section do not:*

*(a) Render a service contract void pursuant to NRS 690C.250;*

*(b) Cancel a service contract pursuant to NRS 690C.270; or*

*(c) Release the provider from any liability imposed by a violation of any provision of this chapter.*

*3. As used in this section:*

*(a) "Buyer" means the buyer of a vehicle service contract.*

(b) ~~["Provider" means a person who is obligated to a buyer of a vehicle service contract pursuant to the terms of the vehicle service contract to repair, replace or perform maintenance on, or to indemnify or reimburse the buyer for the costs of repairing, replacing or performing maintenance on, a motor vehicle.~~

~~(c)~~ "Vehicle service contract" means a contract pursuant to which a provider, in exchange for separately stated consideration, is obligated for a specified period to a buyer to repair, replace or perform maintenance on, or indemnify or reimburse the buyer for the costs of repairing, replacing or performing maintenance on, a motor vehicle which is described in the vehicle service contract and which has an operational or structural failure as a result of a defect in materials, workmanship or normal wear and tear, including, without limitation, a contract that includes a provision for incidental payment of indemnity under limited circumstances, including, without limitation, towing, rental and emergency road service.

**Sec. 1.5. NRS 690C.100 is hereby amended to read as follows:**

690C.100 1. The provisions of this title do not apply to:

- (a) A warranty;
- (b) A maintenance agreement;
- (c) A service contract provided by a public utility on its transmission device if the service contract is regulated by the Public Utilities Commission of Nevada;
- (d) A service contract sold or offered for sale to a person who is not a consumer;
- (e) A service contract for goods if the purchase price of the goods is less than \$250; or
- (f) ~~["A]~~ **Except as otherwise provided in section 1 of this act, a** service contract issued, sold or offered for sale by a vehicle dealer on vehicles sold by the dealer, if the dealer is licensed pursuant to NRS 482.325 and the service contract obligates either the dealer or the manufacturer of the vehicle, or an affiliate of the dealer or manufacturer, to provide all services under the service contract.

2. The sale of a service contract pursuant to this chapter does not constitute the business of insurance for the purposes of 18 U.S.C. §§ 1033 and 1034.

3. As used in this section:

(a) "Maintenance agreement" means a contract for a limited period that provides only for scheduled maintenance.

(b) "Warranty" means a warranty provided solely by a manufacturer, importer or seller of goods for which the manufacturer, importer or seller did not receive separate consideration and that:

- (1) Is not negotiated or separated from the sale of the goods;
- (2) Is incidental to the sale of the goods; and

(3) Guarantees to indemnify the consumer for defective parts, mechanical or electrical failure, labor or other remedial measures required to repair or replace the goods.

Sec. 2. ~~[NRS 482.319 is hereby amended to read as follows:~~

~~482.319 1. A natural person who applies for the issuance or renewal of a license issued pursuant to the provisions of NRS 482.318 to 482.363105, inclusive, and section 1 of this act shall submit to the Department 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 Department shall include the statement required pursuant to subsection 1 in:~~

~~(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or~~

~~(b) A separate form prescribed by the Department.~~

~~3. A license may not be issued or renewed by the Department pursuant to the provisions of NRS 482.318 to 482.363105, inclusive, and section 1 of this act if the applicant is a natural person who:~~

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

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

~~4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Department 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.]~~

~~(Deleted by amendment.)~~

Sec. 3. ~~[H.]~~ This act becomes effective on October 1, 2007.

~~† 2. Section 2 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:~~

~~(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or~~

~~(b) Are in arrears in the payment for the support of one or more children; → are repealed by the Congress of the United States.]~~

Assemblyman Atkinson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 239.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 497.

The following Senate amendment was read:

Amendment No. 928.

AN ACT relating to public safety; **revising provisions relating to services provided for the control of vehicular traffic related to a special event; requiring proof of insurance to be contained in an application for the registration of a motor vehicle**; transferring certain duties for training peace officers from the Department of Motor Vehicles to the Department of Public Safety; revising provisions governing the revocation of driver's licenses; prohibiting a person who has a temporary driver's license from obtaining another temporary license in certain circumstances; revising provisions governing the issuance of motor vehicle insurance; revising provisions relating to the security that must be deposited when a report of certain motor vehicle accidents involving injury, death or damage to property is received by the Department of Motor Vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

**Existing law provides that the Nevada Highway Patrol may enter into a contract with any person to provide services for the control of vehicular traffic related to a special event. (NRS 480.340) Section 1 of this bill provides that any qualified personnel of the Department of Public Safety, as well as the Nevada Highway Patrol, may provide services for the control of vehicular traffic pursuant to the contract.**

Section ~~1.1~~ 1.3 of this bill **requires an application for the registration of a motor vehicle to contain proof satisfactory to the Department of Motor Vehicles that the applicant has provided the insurance required by law, in lieu of signing a declaration indicating that he has provided the insurance. (NRS 482.215, 485.185)**

**Section 1.7 of this bill** transfers the duty of training peace officers in identifying and handling drivers who suffer from ~~(insulin shock)~~ **a diabetic condition** or epileptic seizures from the Department of Motor Vehicles to the Department of Public Safety. (NRS 483.348)

Existing law requires the Department of Motor Vehicles to revoke the driver's license of a person who is convicted of certain felonies involving the use of a vehicle. Existing law further requires the Department to set aside the revocation during any period of imprisonment until the period of imprisonment is completed or until the person has been placed on residential confinement. (NRS 483.460) Sections 2, 11 and 12 of this bill provide instead that the revocation will resume when the Department is notified by the Department of Corrections or the Department of Public Safety that the

person has completed his period of imprisonment or has been placed on residential confinement or parole.

Existing law requires a law enforcement officer to revoke the driver's license, permit or privilege to drive of a person who has a concentration of alcohol of 0.08 or more in his blood or breath or who is found to have a detectable amount of a prohibited substance in his blood or urine. The officer is required to advise the person of his right to administrative and judicial review of the revocation and to have a temporary license, valid for 7 days, which the officer must issue upon request. (NRS 484.385) In addition, if the person requests administrative review of the revocation, the Department of Motor Vehicles is required to issue an additional temporary license which is valid for a period sufficient to complete the administrative review. (NRS 484.387) Sections 3-6 of this bill provide that a person driving with a temporary permit is not entitled to receive an additional temporary permit if he is found again to have driven with a prohibited amount of alcohol in his blood or breath or a prohibited substance in his blood or urine.

Existing law requires each owner of a motor vehicle to maintain a certain amount of insurance against bodily injury or death. (NRS 485.185) Section 7 of this bill requires that such insurance must be obtained from a company that is licensed and has been approved to do business in this State.

Existing law requires the Department of Motor Vehicles to suspend the driver's license or privilege to drive and the motor vehicle registrations of each owner of a motor vehicle involved in a motor vehicle accident involving injury or death when it is determined that the required security has not been deposited and the person has not been released from liability and has not executed an agreement to pay in installments. Existing law requires notice of the suspension to be sent to the person at least 10 days before the effective date of the suspension. (NRS 485.190) Section 8 of this bill requires the suspension to be effective immediately after the determination is made unless the person immediately deposits the security at the hearing.

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

**Section 1. NRS 480.340 is hereby amended to read as follows:**

480.340 1. Except as otherwise provided in this section, the Chief of the Nevada Highway Patrol may enter into a contract with any person or governmental agency to provide services for the control of vehicular traffic related to or affected by any special event sponsored by the person or agency.

2. Any such contract:

(a) Must require the sponsor of the special event to reimburse the Nevada Highway Patrol for the cost of the services provided.

(b) May require the sponsor to furnish a bond to ensure that reimbursement is made.

(c) Is subject to the following limitations:

(1) The services provided pursuant to the contract must be provided by personnel of the Nevada Highway Patrol ~~or~~ or other qualified personnel of the Department.

(2) The services required must not impair the ability of the Nevada Highway Patrol to perform its customary duties.

3. Any money received by the Nevada Highway Patrol pursuant to such a contract must be deposited with the State Treasurer for credit to the State Highway Fund.

4. As used in this section, “special event” has the meaning ascribed to it in NRS 484.900.

**Sec. 1.3. NRS 482.215 is hereby amended to read as follows:**

482.215 1. All applications for registration, except applications for renewal of registration, must be made as provided in this section.

2. Except as otherwise provided in NRS 482.294, applications for all registrations, except renewals of registration, must be made in person, if practicable, to any office or agent of the Department or to a registered dealer.

3. Each application must be made upon the appropriate form furnished by the Department and contain:

(a) The signature of the owner, except as otherwise provided in subsection 2 of NRS 482.294, if applicable.

(b) His residential address.

(c) His declaration of the county where he intends the vehicle to be based, unless the vehicle is deemed to have no base. The Department shall use this declaration to determine the county to which the governmental services tax is to be paid.

(d) A brief description of the vehicle to be registered, including the name of the maker, the engine, identification or serial number, whether new or used, and the last license number, if known, and the state in which it was issued, and upon the registration of a new vehicle, the date of sale by the manufacturer or franchised and licensed dealer in this State for the make to be registered to the person first purchasing or operating the vehicle.

(e) Except as otherwise provided in this paragraph, if the applicant is not an owner of a fleet of vehicles or a person described in subsection 5, proof satisfactory to the Department or registered dealer that the applicant has provided the insurance required by NRS 485.185 and a declaration signed by the applicant that he ~~has provided the insurance required by NRS 485.185 and~~ will maintain the insurance during the period of registration. If the application is submitted by electronic means pursuant to NRS 482.294, the applicant is not required to sign the declaration required by this paragraph.

(f) If the applicant is an owner of a fleet of vehicles or a person described in subsection 5, evidence of insurance:

(1) In the form of a certificate of insurance on a form approved by the Commissioner of Insurance;

(2) In the form of a card issued pursuant to NRS 690B.023 which identifies the vehicle and indicates, at the time of application for registration, coverage which meets the requirements of NRS 485.185; or

(3) In another form satisfactory to the Department.

➡ The Department may file that evidence, return it to the applicant or otherwise dispose of it.

(g) If required, evidence of the applicant's compliance with controls over emission.

4. The application must contain such other information as is required by the Department or registered dealer and must be accompanied by proof of ownership satisfactory to the Department.

5. For purposes of the evidence required by paragraph (f) of subsection 3:

(a) Vehicles which are subject to the fee for a license and the requirements of registration of the Interstate Highway User Fee Apportionment Act, and which are based in this State, may be declared as a fleet by the registered owner thereof on his original application for or application for renewal of a proportional registration. The owner may file a single certificate of insurance covering that fleet.

(b) Other fleets composed of 10 or more vehicles based in this State or vehicles insured under a blanket policy which does not identify individual vehicles may each be declared annually as a fleet by the registered owner thereof for the purposes of an application for his original or any renewed registration. The owner may file a single certificate of insurance covering that fleet.

(c) A person who qualifies as a self-insurer pursuant to the provisions of NRS 485.380 may file a copy of his certificate of self-insurance.

(d) A person who qualifies for an operator's policy of liability insurance pursuant to the provisions of NRS 485.186 and 485.3091 may file evidence of that insurance.

~~{Section 1.}~~ **Sec. 1.7.** NRS 483.348 is hereby amended to read as follows:

483.348 1. Except as otherwise provided in subsection 2, the Department shall issue a driver's license with a specially colored background to any person who qualifies for a driver's license pursuant to the provisions of this chapter and delivers to the Department a signed statement from a physician that the person is an insulin dependent diabetic or an epileptic. The Department shall designate one color to be used only for a driver's license held by a diabetic and another color to be used only for a driver's license held by an epileptic.

2. In lieu of issuing a driver's license pursuant to subsection 1, the Department may issue to a person specified in that subsection a driver's license with a specially colored border around the photograph on the license.

3. The Department *of Public Safety* shall provide for the education of peace officers on the:



(a) Effects and treatment of a person suffering from ~~[insulin shock]~~ a diabetic condition or an epileptic seizure and the similarity in appearance of a person suffering from ~~[insulin shock]~~ a diabetic condition or an epileptic seizure to a person under the influence of alcohol or a controlled substance; and

(b) Procedures for identifying and handling situations involving a person suffering from ~~[insulin shock]~~ a diabetic condition or an epileptic seizure.

Sec. 2. 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 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~~ **when the Department is notified pursuant to section 11 or 12 of this act that the person has completed** the period of imprisonment or ~~when~~ **that** the person ~~is~~ **has been** placed on residential confinement ~~[ ]~~ **or parole**.

(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.

Sec. 3. NRS 484.385 is hereby amended to read as follows:

484.385 1. As agent for the Department, the officer who obtained the result of a test given pursuant to NRS 484.382 or 484.383 shall immediately serve an order of revocation of the license, permit or privilege to drive on a person who has a concentration of alcohol of 0.08 or more in his blood or breath or has a detectable amount of a prohibited substance in his blood or urine, if that person is present, and shall seize his license or permit to drive. The officer shall then advise him of his right to administrative and judicial review of the revocation ~~and to have a~~ **pursuant to NRS 484.387 and, except as otherwise provided in this subsection, that he has a right to request a temporary license . ~~[and]~~ If the person currently is driving with a temporary license that was issued pursuant to this section or NRS 484.387,**

*he is not entitled to request an additional temporary license pursuant to this section or NRS 484.387, and the order of revocation issued by the officer must revoke the temporary license that was previously issued. If the person is entitled to request a temporary license, the officer shall issue him a temporary license on a form approved by the Department if he requests one, which is effective for only 7 days including the date of issuance. The officer shall immediately transmit the person's license or permit to the Department along with the written certificate required by subsection 2.*

2. When a police officer has served an order of revocation of a driver's license, permit or privilege on a person pursuant to subsection 1, or later receives the result of an evidentiary test which indicates that a person, not then present, had a concentration of alcohol of 0.08 or more in his blood or breath or had a detectable amount of a prohibited substance in his blood or urine, the officer shall immediately prepare and transmit to the Department, together with the seized license or permit and a copy of the result of the test, a written certificate that he had reasonable grounds to believe that the person had been driving or in actual physical control of a vehicle with a concentration of alcohol of 0.08 or more in his blood or breath or with a detectable amount of a prohibited substance in his blood or urine, as determined by a chemical test. The certificate must also indicate whether the officer served an order of revocation on the person and whether he issued the person a temporary license.

3. The Department, upon receipt of such a certificate for which an order of revocation has not been served, after examining the certificate and copy of the result of the chemical test, if any, and finding that revocation is proper, shall issue an order revoking the person's license, permit or privilege to drive by mailing the order to the person at his last known address. The order must indicate the grounds for the revocation and the period during which the person is not eligible for a license, permit or privilege to drive and state that the person has a right to administrative and judicial review of the revocation and to have a temporary license. The order of revocation becomes effective 5 days after mailing.

4. Notice of an order of revocation and notice of the affirmation of a prior order of revocation or the cancellation of a temporary license provided in NRS 484.387 is sufficient if it is mailed to the person's last known address as shown by any application for a license. The date of mailing may be proved by the certificate of any officer or employee of the Department, specifying the time of mailing the notice. The notice is presumed to have been received upon the expiration of 5 days after it is deposited, postage prepaid, in the United States mail.

Sec. 4. NRS 484.385 is hereby amended to read as follows:

484.385 1. As agent for the Department, the officer who obtained the result of a test given pursuant to NRS 484.382 or 484.383 shall immediately serve an order of revocation of the license, permit or privilege to drive on a person who has a concentration of alcohol of 0.10 or more in his blood or

breath or has a detectable amount of a prohibited substance in his blood or urine, if that person is present, and shall seize his license or permit to drive. The officer shall then advise him of his right to administrative and judicial review of the revocation ~~[and to have a]~~ *pursuant to NRS 484.387 and, except as otherwise provided in this subsection, that he has a right to request a temporary license .* ~~[and]~~ *If the person currently is driving with a temporary license that was issued pursuant to this section or NRS 484.387, he is not entitled to request an additional temporary license pursuant to this section or NRS 484.387, and the order of revocation issued by the officer must revoke the temporary license that was previously issued. If the person is entitled to request a temporary license, the officer* shall issue him a temporary license on a form approved by the Department if he requests one, which is effective for only 7 days including the date of issuance. The officer shall immediately transmit the person's license or permit to the Department along with the written certificate required by subsection 2.

2. When a police officer has served an order of revocation of a driver's license, permit or privilege on a person pursuant to subsection 1, or later receives the result of an evidentiary test which indicates that a person, not then present, had a concentration of alcohol of 0.10 or more in his blood or breath or had a detectable amount of a prohibited substance in his blood or urine, the officer shall immediately prepare and transmit to the Department, together with the seized license or permit and a copy of the result of the test, a written certificate that he had reasonable grounds to believe that the person had been driving or in actual physical control of a vehicle with a concentration of alcohol of 0.10 or more in his blood or breath or with a detectable amount of a prohibited substance in his blood or urine, as determined by a chemical test. The certificate must also indicate whether the officer served an order of revocation on the person and whether he issued the person a temporary license.

3. The Department, upon receipt of such a certificate for which an order of revocation has not been served, after examining the certificate and copy of the result of the chemical test, if any, and finding that revocation is proper, shall issue an order revoking the person's license, permit or privilege to drive by mailing the order to the person at his last known address. The order must indicate the grounds for the revocation and the period during which the person is not eligible for a license, permit or privilege to drive and state that the person has a right to administrative and judicial review of the revocation and to have a temporary license. The order of revocation becomes effective 5 days after mailing.

4. Notice of an order of revocation and notice of the affirmation of a prior order of revocation or the cancellation of a temporary license provided in NRS 484.387 is sufficient if it is mailed to the person's last known address as shown by any application for a license. The date of mailing may be proved by the certificate of any officer or employee of the Department, specifying the time of mailing the notice. The notice is presumed to have been received

upon the expiration of 5 days after it is deposited, postage prepaid, in the United States mail.

Sec. 5. NRS 484.387 is hereby amended to read as follows:

484.387 1. At any time while a person is not eligible for a license, permit or privilege to drive following an order of revocation issued pursuant to NRS 484.385, he may request in writing a hearing by the Department to review the order of revocation, but he is only entitled to one hearing. The hearing must be conducted within 15 days after receipt of the request, or as soon thereafter as is practicable, in the county where the requester resides unless the parties agree otherwise. The Director or his agent may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the requester. ~~{The}~~ ***Unless the person is ineligible for a temporary license pursuant to NRS 484.385, the*** Department shall issue an additional temporary license for a period which is sufficient to complete the administrative review.

2. The scope of the hearing must be limited to the issue of whether the person, at the time of the test, had a concentration of alcohol of 0.08 or more in his blood or breath or a detectable amount of a prohibited substance in his blood or urine. Upon an affirmative finding on this issue, the Department shall affirm the order of revocation. Otherwise, the order of revocation must be rescinded.

3. If, after the hearing, the order of revocation is affirmed, the person whose license, privilege or permit has been revoked is entitled to a review of the same issues in district court in the same manner as provided by chapter 233B of NRS. The court shall notify the Department upon the issuance of a stay, and the Department shall issue an additional temporary license for a period which is sufficient to complete the review.

4. If a hearing officer grants a continuance of a hearing at the request of the person whose license was revoked, or a court does so after issuing a stay of the revocation, the officer or court shall notify the Department, and the Department shall cancel the temporary license and notify the holder by mailing the order of cancellation to his last known address.

Sec. 6. NRS 484.387 is hereby amended to read as follows:

484.387 1. At any time while a person is not eligible for a license, permit or privilege to drive following an order of revocation issued pursuant to NRS 484.385, he may request in writing a hearing by the Department to review the order of revocation, but he is only entitled to one hearing. The hearing must be conducted within 15 days after receipt of the request, or as soon thereafter as is practicable, in the county where the requester resides unless the parties agree otherwise. The Director or his agent may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the requester. ~~{The}~~ ***Unless the person is ineligible for a temporary license pursuant to NRS 484.385, the*** Department shall issue an additional temporary license for a period which is sufficient to complete the administrative review.

2. The scope of the hearing must be limited to the issue of whether the person, at the time of the test, had a concentration of alcohol of 0.10 or more in his blood or breath or a detectable amount of a prohibited substance in his blood or urine. Upon an affirmative finding on this issue, the Department shall affirm the order of revocation. Otherwise, the order of revocation must be rescinded.

3. If, after the hearing, the order of revocation is affirmed, the person whose license, privilege or permit has been revoked is entitled to a review of the same issues in district court in the same manner as provided by chapter 233B of NRS. The court shall notify the Department upon the issuance of a stay, and the Department shall issue an additional temporary license for a period which is sufficient to complete the review.

4. If a hearing officer grants a continuance of a hearing at the request of the person whose license was revoked, or a court does so after issuing a stay of the revocation, the officer or court shall notify the Department, and the Department shall cancel the temporary license and notify the holder by mailing the order of cancellation to his last known address.

Sec. 7. NRS 485.185 is hereby amended to read as follows:

485.185 Every owner of a motor vehicle which is registered or required to be registered in this State shall continuously provide, while the motor vehicle is present or registered in this State, insurance ~~{ }~~ ***provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State:***

1. In the amount of \$15,000 for bodily injury to or death of one person in any one accident;

2. Subject to the limit for one person, in the amount of \$30,000 for bodily injury to or death of two or more persons in any one accident; and

3. In the amount of \$10,000 for injury to or destruction of property of others in any one accident,

➡ for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.

Sec. 8. NRS 485.190 is hereby amended to read as follows:

485.190 1. If 20 days after the receipt of a report of an accident involving a motor vehicle within this State which has resulted in bodily injury or death, or damage to the property of any one person in excess of \$750, the Department does not have on file evidence satisfactory to it that the person who would otherwise be required to file security under subsection 2 ~~{of this section}~~ has been released from liability, has been finally adjudicated not to be liable or has executed an acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the Department shall upon request set the matter for a hearing as provided in NRS 485.191.

2. The Department shall ~~{, at any time}~~ , **immediately** after a determination adverse to an operator or owner **is made in a hearing** pursuant to NRS 485.191, suspend the license of each operator and all registrations of each owner of a motor vehicle involved in such an accident, and, if the operator is a nonresident, the privilege of operating a motor vehicle within this State, and, if the owner is a nonresident, the privilege of the use within this State of any motor vehicle owned by him, unless the operator or owner, or both, **immediately** deposit security in the sum so determined by the Department ~~{. Notice of such a suspension must be sent by the Department to the operator and owner not less than 10 days before the effective date of the suspension and must state the amount required as security.}~~ **at the hearing.** If erroneous information is given to the Department with respect to the matters set forth in paragraph (a), (b) or (c) of subsection 1 of NRS 485.200, the Department shall take appropriate action as provided in this section after it receives correct information with respect to those matters.

Sec. 9. NRS 485.301 is hereby amended to read as follows:

485.301 1. Whenever any person fails within 60 days to satisfy any judgment ~~{}~~ **that was entered as a result of an accident involving a motor vehicle**, the judgment creditor or his attorney may forward to the Department immediately after the expiration of the 60 days a certified copy of the judgment.

2. If the defendant named in any certified copy of a judgment **that was entered as a result of an accident involving a motor vehicle and** reported to the Department is a nonresident, the Department shall transmit a certified copy of the judgment to the officer in charge of the issuance of licenses and registration certificates of the state in which the defendant is a resident.

Sec. 10. NRS 485.3099 is hereby amended to read as follows:

485.3099 1. The Department shall, upon request, consent to the immediate cancellation of any certificate of financial responsibility or waive the requirement of filing proof of financial responsibility, in ~~{any of}~~ the following events:

(a) ~~{At any time after 3 years after the date the proof of financial responsibility was required when, during the 3-year period preceding the request, the Department has not received a record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license, registration or nonresident's operating privilege of the person by or for whom the proof of financial responsibility was furnished;}~~

~~{(b)}~~ The death of the person on whose behalf the proof of financial responsibility was filed or the permanent incapacity of the person to operate a motor vehicle; or

~~{(c)}~~ **(b)** If the person who is required to file proof of financial responsibility surrenders his license and registration to the Department.

2. If a person who surrenders his license and registration pursuant to paragraph ~~{(c)}~~ **(b)** of subsection 1 applies for a license or registration within a period of 3 years after the date proof of financial responsibility was

originally required, the application must be refused unless the applicant reestablishes proof of financial responsibility for the remainder of the 3-year period.

Sec. 11. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

*The Director shall notify the Department of Motor Vehicles when a driver who has had his license, permit or privilege to drive revoked pursuant to NRS 483.460 has completed a period of imprisonment or is placed on residential confinement. The notification process must conform to the guidelines provided in regulation by the Department of Motor Vehicles pursuant to NRS 483.460. 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 or when the person is placed on residential confinement.*

Sec. 12. Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:

*The Chief shall notify the Department of Motor Vehicles when a driver who has had his license, permit or privilege to drive revoked pursuant to NRS 483.460 is placed on parole. The notification process must conform to the guidelines provided in regulation by the Department of Motor Vehicles pursuant to NRS 483.460. 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 or when the person is placed on residential confinement.*

Sec. 13. 1. ~~{Sections 1,}~~ **section 1 of this act become effective upon passage and approval.**

**2. Sections 1.3, 1.7, 3, 5 and 7 to 10, inclusive, of this act become effective on October 1, 2007.**

~~{2,}~~ **3. Sections 2, 11 and 12 of this act become effective on March 1, 2008.**

~~{3,}~~ **4. Sections 3 and 5 of this act expire by limitation on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.**

~~{4,}~~ **5. Sections 4 and 6 of this act become effective on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.**

Assemblyman Atkinson moved that the Assembly do not concur in the Senate Amendment No. 928 to Assembly Bill No. 497.

Remarks by Assemblyman Atkinson.

Motion carried.



The following Senate amendment was read:

Amendment No. 943.

AN ACT relating to public safety; transferring certain duties for training peace officers from the Department of Motor Vehicles to the Department of Public Safety; revising provisions governing the revocation of driver's licenses; prohibiting a person who has a temporary driver's license from obtaining another temporary license in certain circumstances; revising provisions governing the issuance of motor vehicle insurance; revising provisions relating to the security that must be deposited when a report of certain motor vehicle accidents involving injury, death or damage to property is received by the Department of Motor Vehicles; **requiring the City of North Las Vegas to acquire and use an automated enforcement system to gather evidence that may be used for the issuance of a traffic citation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill transfers the duty of training peace officers in identifying and handling drivers who suffer from insulin shock or epileptic seizures from the Department of Motor Vehicles to the Department of Public Safety. (NRS 483.348)

Existing law requires the Department of Motor Vehicles to revoke the driver's license of a person who is convicted of certain felonies involving the use of a vehicle. Existing law further requires the Department to set aside the revocation during any period of imprisonment until the period of imprisonment is completed or until the person has been placed on residential confinement. (NRS 483.460) Sections 2, 11 and 12 of this bill provide instead that the revocation will resume when the Department is notified by the Department of Corrections or the Department of Public Safety that the person has completed his period of imprisonment or has been placed on residential confinement or parole.

Existing law requires a law enforcement officer to revoke the driver's license, permit or privilege to drive of a person who has a concentration of alcohol of 0.08 or more in his blood or breath or who is found to have a detectable amount of a prohibited substance in his blood or urine. The officer is required to advise the person of his right to administrative and judicial review of the revocation and to have a temporary license, valid for 7 days, which the officer must issue upon request. (NRS 484.385) In addition, if the person requests administrative review of the revocation, the Department of Motor Vehicles is required to issue an additional temporary license which is valid for a period sufficient to complete the administrative review. (NRS 484.387) Sections 3-6 of this bill provide that a person driving with a temporary permit is not entitled to receive an additional temporary permit if he is found again to have driven with a prohibited amount of alcohol in his blood or breath or a prohibited substance in his blood or urine.

Existing law requires each owner of a motor vehicle to maintain a certain amount of insurance against bodily injury or death. (NRS 485.185) Section 7

of this bill requires that such insurance must be obtained from a company that is licensed and has been approved to do business in this State.

Existing law requires the Department of Motor Vehicles to suspend the driver's license or privilege to drive and the motor vehicle registrations of each owner of a motor vehicle involved in a motor vehicle accident involving injury or death when it is determined that the required security has not been deposited and the person has not been released from liability and has not executed an agreement to pay in installments. Existing law requires notice of the suspension to be sent to the person at least 10 days before the effective date of the suspension. (NRS 485.190) Section 8 of this bill requires the suspension to be effective immediately after the determination is made unless the person immediately deposits the security at the hearing.

**Section 12.5 of this bill requires the City of North Las Vegas to acquire and use an automated enforcement system to gather evidence that may be used for the issuance of a traffic citation. The section expires by limitation on June 30, 2011.**

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

~~Section 1~~—NRS 483.348 is hereby amended to read as follows:

483.348 1. Except as otherwise provided in subsection 2, the Department shall issue a driver's license with a specially colored background to any person who qualifies for a driver's license pursuant to the provisions of this chapter and delivers to the Department a signed statement from a physician that the person is an insulin dependent diabetic or an epileptic. The Department shall designate one color to be used only for a driver's license held by a diabetic and another color to be used only for a driver's license held by an epileptic.

2. In lieu of issuing a driver's license pursuant to subsection 1, the Department may issue to a person specified in that subsection a driver's license with a specially colored border around the photograph on the license.

3. The Department *of Public Safety* shall provide for the education of peace officers on the:

(a) Effects and treatment of a person suffering from insulin shock or an epileptic seizure and the similarity in appearance of a person suffering from insulin shock or an epileptic seizure to a person under the influence of alcohol or a controlled substance; and

(b) Procedures for identifying and handling situations involving a person suffering from insulin shock or an epileptic seizure.

Sec. 2. 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 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~~ **when the Department is notified pursuant to section 11 or 12 of this act that the person has completed** the period of imprisonment or ~~when~~ **that** the person ~~is~~ **has been** placed on residential confinement ~~or~~ **or parole**.

(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.

Sec. 3. NRS 484.385 is hereby amended to read as follows:

484.385 1. As agent for the Department, the officer who obtained the result of a test given pursuant to NRS 484.382 or 484.383 shall immediately serve an order of revocation of the license, permit or privilege to drive on a person who has a concentration of alcohol of 0.08 or more in his blood or breath or has a detectable amount of a prohibited substance in his blood or urine, if that person is present, and shall seize his license or permit to drive. The officer shall then advise him of his right to administrative and judicial review of the revocation ~~and to have a~~ *pursuant to NRS 484.387 and, except as otherwise provided in this subsection, that he has a right to request a temporary license . ~~[-and]~~ If the person currently is driving with a temporary license that was issued pursuant to this section or NRS 484.387, he is not entitled to request an additional temporary license pursuant to this section or NRS 484.387, and the order of revocation issued by the officer must revoke the temporary license that was previously issued. If the person is entitled to request a temporary license, the officer* shall issue him a temporary license on a form approved by the Department if he requests one, which is effective for only 7 days including the date of issuance. The officer shall immediately transmit the person's license or permit to the Department along with the written certificate required by subsection 2.

2. When a police officer has served an order of revocation of a driver's license, permit or privilege on a person pursuant to subsection 1, or later receives the result of an evidentiary test which indicates that a person, not then present, had a concentration of alcohol of 0.08 or more in his blood or breath or had a detectable amount of a prohibited substance in his blood or

urine, the officer shall immediately prepare and transmit to the Department, together with the seized license or permit and a copy of the result of the test, a written certificate that he had reasonable grounds to believe that the person had been driving or in actual physical control of a vehicle with a concentration of alcohol of 0.08 or more in his blood or breath or with a detectable amount of a prohibited substance in his blood or urine, as determined by a chemical test. The certificate must also indicate whether the officer served an order of revocation on the person and whether he issued the person a temporary license.

3. The Department, upon receipt of such a certificate for which an order of revocation has not been served, after examining the certificate and copy of the result of the chemical test, if any, and finding that revocation is proper, shall issue an order revoking the person's license, permit or privilege to drive by mailing the order to the person at his last known address. The order must indicate the grounds for the revocation and the period during which the person is not eligible for a license, permit or privilege to drive and state that the person has a right to administrative and judicial review of the revocation and to have a temporary license. The order of revocation becomes effective 5 days after mailing.

4. Notice of an order of revocation and notice of the affirmation of a prior order of revocation or the cancellation of a temporary license provided in NRS 484.387 is sufficient if it is mailed to the person's last known address as shown by any application for a license. The date of mailing may be proved by the certificate of any officer or employee of the Department, specifying the time of mailing the notice. The notice is presumed to have been received upon the expiration of 5 days after it is deposited, postage prepaid, in the United States mail.

Sec. 4. NRS 484.385 is hereby amended to read as follows:

484.385 1. As agent for the Department, the officer who obtained the result of a test given pursuant to NRS 484.382 or 484.383 shall immediately serve an order of revocation of the license, permit or privilege to drive on a person who has a concentration of alcohol of 0.10 or more in his blood or breath or has a detectable amount of a prohibited substance in his blood or urine, if that person is present, and shall seize his license or permit to drive. The officer shall then advise him of his right to administrative and judicial review of the revocation ~~and to have a~~ *pursuant to NRS 484.387 and, except as otherwise provided in this subsection, that he has a right to request a temporary license .* ~~[and]~~ *If the person currently is driving with a temporary license that was issued pursuant to this section or NRS 484.387, he is not entitled to request an additional temporary license pursuant to this section or NRS 484.387, and the order of revocation issued by the officer must revoke the temporary license that was previously issued. If the person is entitled to request a temporary license, the officer shall issue him a temporary license on a form approved by the Department if he requests one, which is effective for only 7 days including the date of issuance. The*

officer shall immediately transmit the person's license or permit to the Department along with the written certificate required by subsection 2.

2. When a police officer has served an order of revocation of a driver's license, permit or privilege on a person pursuant to subsection 1, or later receives the result of an evidentiary test which indicates that a person, not then present, had a concentration of alcohol of 0.10 or more in his blood or breath or had a detectable amount of a prohibited substance in his blood or urine, the officer shall immediately prepare and transmit to the Department, together with the seized license or permit and a copy of the result of the test, a written certificate that he had reasonable grounds to believe that the person had been driving or in actual physical control of a vehicle with a concentration of alcohol of 0.10 or more in his blood or breath or with a detectable amount of a prohibited substance in his blood or urine, as determined by a chemical test. The certificate must also indicate whether the officer served an order of revocation on the person and whether he issued the person a temporary license.

3. The Department, upon receipt of such a certificate for which an order of revocation has not been served, after examining the certificate and copy of the result of the chemical test, if any, and finding that revocation is proper, shall issue an order revoking the person's license, permit or privilege to drive by mailing the order to the person at his last known address. The order must indicate the grounds for the revocation and the period during which the person is not eligible for a license, permit or privilege to drive and state that the person has a right to administrative and judicial review of the revocation and to have a temporary license. The order of revocation becomes effective 5 days after mailing.

4. Notice of an order of revocation and notice of the affirmation of a prior order of revocation or the cancellation of a temporary license provided in NRS 484.387 is sufficient if it is mailed to the person's last known address as shown by any application for a license. The date of mailing may be proved by the certificate of any officer or employee of the Department, specifying the time of mailing the notice. The notice is presumed to have been received upon the expiration of 5 days after it is deposited, postage prepaid, in the United States mail.

Sec. 5. NRS 484.387 is hereby amended to read as follows:

484.387 1. At any time while a person is not eligible for a license, permit or privilege to drive following an order of revocation issued pursuant to NRS 484.385, he may request in writing a hearing by the Department to review the order of revocation, but he is only entitled to one hearing. The hearing must be conducted within 15 days after receipt of the request, or as soon thereafter as is practicable, in the county where the requester resides unless the parties agree otherwise. The Director or his agent may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the requester. ~~{The}~~ ***Unless the person is ineligible for a temporary license pursuant to NRS***

**484.385, the** Department shall issue an additional temporary license for a period which is sufficient to complete the administrative review.

2. The scope of the hearing must be limited to the issue of whether the person, at the time of the test, had a concentration of alcohol of 0.08 or more in his blood or breath or a detectable amount of a prohibited substance in his blood or urine. Upon an affirmative finding on this issue, the Department shall affirm the order of revocation. Otherwise, the order of revocation must be rescinded.

3. If, after the hearing, the order of revocation is affirmed, the person whose license, privilege or permit has been revoked is entitled to a review of the same issues in district court in the same manner as provided by chapter 233B of NRS. The court shall notify the Department upon the issuance of a stay, and the Department shall issue an additional temporary license for a period which is sufficient to complete the review.

4. If a hearing officer grants a continuance of a hearing at the request of the person whose license was revoked, or a court does so after issuing a stay of the revocation, the officer or court shall notify the Department, and the Department shall cancel the temporary license and notify the holder by mailing the order of cancellation to his last known address.

Sec. 6. NRS 484.387 is hereby amended to read as follows:

484.387 1. At any time while a person is not eligible for a license, permit or privilege to drive following an order of revocation issued pursuant to NRS 484.385, he may request in writing a hearing by the Department to review the order of revocation, but he is only entitled to one hearing. The hearing must be conducted within 15 days after receipt of the request, or as soon thereafter as is practicable, in the county where the requester resides unless the parties agree otherwise. The Director or his agent may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the requester. ~~[The]~~ **Unless the person is ineligible for a temporary license pursuant to NRS 484.385, the** Department shall issue an additional temporary license for a period which is sufficient to complete the administrative review.

2. The scope of the hearing must be limited to the issue of whether the person, at the time of the test, had a concentration of alcohol of 0.10 or more in his blood or breath or a detectable amount of a prohibited substance in his blood or urine. Upon an affirmative finding on this issue, the Department shall affirm the order of revocation. Otherwise, the order of revocation must be rescinded.

3. If, after the hearing, the order of revocation is affirmed, the person whose license, privilege or permit has been revoked is entitled to a review of the same issues in district court in the same manner as provided by chapter 233B of NRS. The court shall notify the Department upon the issuance of a stay, and the Department shall issue an additional temporary license for a period which is sufficient to complete the review.

4. If a hearing officer grants a continuance of a hearing at the request of the person whose license was revoked, or a court does so after issuing a stay of the revocation, the officer or court shall notify the Department, and the Department shall cancel the temporary license and notify the holder by mailing the order of cancellation to his last known address.

Sec. 7. NRS 485.185 is hereby amended to read as follows:

485.185 Every owner of a motor vehicle which is registered or required to be registered in this State shall continuously provide, while the motor vehicle is present or registered in this State, insurance ~~{=}~~ ***provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State:***

1. In the amount of \$15,000 for bodily injury to or death of one person in any one accident;

2. Subject to the limit for one person, in the amount of \$30,000 for bodily injury to or death of two or more persons in any one accident; and

3. In the amount of \$10,000 for injury to or destruction of property of others in any one accident,

➔ for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.

Sec. 8. NRS 485.190 is hereby amended to read as follows:

485.190 1. If 20 days after the receipt of a report of an accident involving a motor vehicle within this State which has resulted in bodily injury or death, or damage to the property of any one person in excess of \$750, the Department does not have on file evidence satisfactory to it that the person who would otherwise be required to file security under subsection 2 ~~{of this section}~~ has been released from liability, has been finally adjudicated not to be liable or has executed an acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the Department shall upon request set the matter for a hearing as provided in NRS 485.191.

2. The Department shall ~~{, at any time}~~ , ***immediately*** after a determination adverse to an operator or owner ***is made in a hearing*** pursuant to NRS 485.191, suspend the license of each operator and all registrations of each owner of a motor vehicle involved in such an accident, and, if the operator is a nonresident, the privilege of operating a motor vehicle within this State, and, if the owner is a nonresident, the privilege of the use within this State of any motor vehicle owned by him, unless the operator or owner, or both, ***immediately*** deposit security in the sum so determined by the Department ~~{. Notice of such a suspension must be sent by the Department to the operator and owner not less than 10 days before the effective date of the suspension and must state the amount required as security.}~~ ***at the hearing.*** If erroneous information is given to the Department with respect to the matters set forth in paragraph (a), (b) or (c) of subsection 1 of NRS 485.200, the



Department shall take appropriate action as provided in this section after it receives correct information with respect to those matters.

Sec. 9. NRS 485.301 is hereby amended to read as follows:

485.301 1. Whenever any person fails within 60 days to satisfy any judgment ~~{ }~~ **that was entered as a result of an accident involving a motor vehicle**, the judgment creditor or his attorney may forward to the Department immediately after the expiration of the 60 days a certified copy of the judgment.

2. If the defendant named in any certified copy of a judgment **that was entered as a result of an accident involving a motor vehicle and** reported to the Department is a nonresident, the Department shall transmit a certified copy of the judgment to the officer in charge of the issuance of licenses and registration certificates of the state in which the defendant is a resident.

Sec. 10. NRS 485.3099 is hereby amended to read as follows:

485.3099 1. The Department shall, upon request, consent to the immediate cancellation of any certificate of financial responsibility or waive the requirement of filing proof of financial responsibility, in ~~{any of}~~ the following events:

(a) ~~{At any time after 3 years after the date the proof of financial responsibility was required when, during the 3 year period preceding the request, the Department has not received a record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license, registration or nonresident's operating privilege of the person by or for whom the proof of financial responsibility was furnished;~~

~~{b)}~~ The death of the person on whose behalf the proof of financial responsibility was filed or the permanent incapacity of the person to operate a motor vehicle; or

~~{(e)}~~ (b) If the person who is required to file proof of financial responsibility surrenders his license and registration to the Department.

2. If a person who surrenders his license and registration pursuant to paragraph ~~{(e)}~~ (b) of subsection 1 applies for a license or registration within a period of 3 years after the date proof of financial responsibility was originally required, the application must be refused unless the applicant reestablishes proof of financial responsibility for the remainder of the 3-year period.

Sec. 11. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

***The Director shall notify the Department of Motor Vehicles when a driver who has had his license, permit or privilege to drive revoked pursuant to NRS 483.460 has completed a period of imprisonment or is placed on residential confinement. The notification process must conform to the guidelines provided in regulation by the Department of Motor Vehicles pursuant to NRS 483.460. 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 or when the person is placed on residential confinement.*

Sec. 12. Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:

*The Chief shall notify the Department of Motor Vehicles when a driver who has had his license, permit or privilege to drive revoked pursuant to NRS 483.460 is placed on parole. The notification process must conform to the guidelines provided in regulation by the Department of Motor Vehicles pursuant to NRS 483.460. 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 or when the person is placed on residential confinement.*

Sec. 12.5. 1. Notwithstanding the provisions of NRS 484.910, the Department of Transportation shall adopt regulations establishing a pilot program for the City of North Las Vegas to acquire and use an automated enforcement system to gather evidence that may be used for the issuance of a traffic citation:

- (a) For a violation of chapter 484 of NRS; or
- (b) For a violation of a municipal ordinance.

2. The regulations adopted pursuant to subsection 1 must set forth, without limitation:

(a) That the penalty for a violation evidenced through the use of an automated enforcement system will be the lowest penalty imposed for the violation of a law or ordinance governing parking which the Department of Transportation determines is sufficient to pay the costs of administering the pilot program.

(b) That a citation issued through the use of an automated enforcement system must:

(1) Insofar as practicable, comply with the applicable provisions of NRS 484.799;

(2) Be issued to the registered owner of the vehicle;

(3) Include or be accompanied by a photograph of the driver;

(4) Be mailed or otherwise delivered to the registered owner of the vehicle within 10 working days after the date of the incident; and

(5) Afford the person cited:

(I) The opportunity to appeal or otherwise challenge the citation by appearance before a magistrate, justice or judge, as appropriate; or

(II) The opportunity to respond by mail within 30 days after the mailing of the citation, by submitting to the court having jurisdiction over the alleged offense, a photocopy of the driver's license of the registered owner and a signed and notarized affidavit stating that the owner was not the driver of the vehicle. A court having jurisdiction over the alleged offense that receives an affidavit and photocopy pursuant to this sub-subparagraph shall dismiss the citation without requiring a

court appearance by the registered owner if it finds there is reason to believe the registered owner was not the driver of the vehicle.

(c) The information which must be included in the report that the City of North Las Vegas is required to provide to the Department of Transportation pursuant to subsection 5.

3. The City of North Las Vegas, in implementing the pilot program, shall:

(a) Coordinate with private entities to provide for a public information campaign regarding the implementation of the pilot program at least 30 days before the commencement of the pilot program; and

(b) Identify the presence of an automated enforcement system by erecting signs which clearly indicate the presence of such a system and which are visible to traffic approaching from all directions, or erect signs at all major entrances to the City of North Las Vegas including, without limitation, freeways, bridges and state highways.

4. A contract between the City of North Las Vegas and a manufacturer or supplier of an automated enforcement system must:

(a) Require the manufacturer or supplier to provide sufficient evidence of a traffic violation in a timely manner to facilitate the issuance of a citation within the period provided for in paragraph (b) of subsection 2; and

(b) Provide that the manufacturer or supplier must not receive:

(1) Any payments or compensation based on the number of citations issued; or

(2) A percentage of the revenue generated as a result of the use of the automated enforcement system.

5. The Department of Transportation shall:

(a) Establish and maintain a clearinghouse of information on matters relating to the use of automated enforcement systems;

(b) Require the City of North Las Vegas to report to the Department of Transportation, on or before October 1, 2008, and October 1, 2010, the information required to be reported by the regulations adopted pursuant to subsection 1; and

(c) On or before January 1, 2009, and January 1, 2011, submit to the Director of the Legislative Counsel Bureau for distribution to each regular session of the Legislature a report on the use of automated enforcement systems.

6. As used in this section:

(a) "Automated enforcement system" means a contrivance, device or mechanism, or any combination thereof, which is used to obtain evidence of a moving traffic violation without operation by a person. The term includes a red-light camera.

(b) "Red-light camera" means a camera which:

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

(2) Is capable of photographing or otherwise capturing images or representations of the following in a simultaneous or approximately simultaneous manner:

(I) The license plate number of a vehicle;

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

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

(IV) The date and time.

Sec. 13. 1. This section and sections 1, 3, 5 and 7 to 10, inclusive, and **12.5** of this act become effective on October 1, 2007.

2. Sections 2, 11 and 12 of this act become effective on March 1, 2008.

3. Sections 3 and 5 of this act expire by limitation on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

4. Sections 4 and 6 of this act become effective on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

**5. Section 12.5 of this act expires by limitation on June 30, 2011.**

Assemblyman Atkinson moved that the Assembly do not concur in the Senate Amendment No. 943 to Assembly Bill No. 497.

Remarks by Assemblyman Atkinson.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 145.

The following Senate amendment was read:

Amendment No. 855.

SUMMARY—Revises provisions governing the assignment of benefits for health insurance. (BDR ~~{57-1068}~~ **40-1068**)

AN ACT relating to health insurance; revising provisions governing the assignment of benefits; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill prohibits an insurer that is **not licensed in this State and that is** obligated to pay benefits for services provided to a person by a hospital or

other provider of health care **or is obligated to reimburse a person for the costs of such services** to make such payments directly to the person if the insurer has notice that the person has assigned the benefits to the hospital or other provider of health care. **This bill does not create grounds for civil or criminal liability.**

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

Section 1. Chapter ~~679A~~ **449** of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[Notwithstanding any specific statute to the contrary, an]~~ **An insurer that is not licensed in this State pursuant to title 57 of NRS and that is obligated to pay benefits for services provided to a person by a hospital or other provider of health care, or to reimburse a person for the costs of such services, shall not make the payment directly to the person if an itemized statement for the services is submitted to the insurer which clearly indicates that the right of the person to those benefits has been assigned to the hospital or other provider of health care.**

2. ~~If an insurer that has notice of such an assignment makes payment directly to the person in violation of subsection 1, the payment:~~

~~(a) Does not release the insurer from liability to pay the hospital or other provider of health care to which the benefits have been assigned; and~~

~~(b) Is not a defense to any action by the hospital or other provider of health care against the insurer to collect the assigned benefits.]~~ **The provisions of this section do not create grounds for civil or criminal liability.**

Assemblyman Ocegüera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 145.

Remarks by Assemblyman Ocegüera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 13.

The following Senate amendment was read:

Amendment No. 843.

AN ACT relating to watercraft; ~~[prohibiting the owner of a boat livery or his agent or employee from renting an aquatic device to any person unless the owner, agent or employee complies with certain requirements;]~~ increasing the age under which a person on a vessel is required to wear a personal flotation device; ~~[providing a penalty;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~f Section 1 of this bill prohibits the owner of a boat livery or his agent or employee from renting an aquatic device to any person unless the owner or his agent or employee complies with certain requirements, including, without~~

~~limitation, providing to each person who will use the aquatic device a personal flotation device approved by the United States Coast Guard and giving verbal instructions for the safe use of the aquatic device. An "aquatic device" includes an inner tube or inflatable raft, but does not include a vessel or motorboat or any device used in a designated swimming area. Section 1 also prohibits a person who is less than 13 years of age from using an aquatic device unless the person is wearing a personal flotation device.]~~

Existing law requires a person under the age of 12 years to wear a personal flotation device when on the topside of a noncommercial vessel. (NRS 488.575) Section 2 of this bill raises the age to less than 13 years of age.

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

Section 1. ~~{Chapter 488 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The owner of a boat livery or his agent or employee shall not rent an aquatic device to any person unless the owner or his agent or employee:~~

~~(a) Provides to each person to whom the aquatic device is rented and to each person who will use the aquatic device:~~

~~(1) A personal flotation device of a type approved by the United States Coast Guard and prescribed by regulations adopted by the Commission;~~

~~(2) A written summary of the laws and regulations of this State governing the use of the aquatic device; and~~

~~(3) Verbal instructions regarding the safe use of the aquatic device; and~~

~~(b) Before the aquatic device leaves the control of the owner or his agent or employee, documents the name and age of each person who will use the aquatic device. The person to whom the aquatic device is rented shall ensure that only a person who is documented as a user is allowed to use the aquatic device.~~

~~2. Each person to whom an aquatic device is rented and each person who uses the aquatic device shall, before using the aquatic device:~~

~~(a) Review the written summary of the laws and regulations provided to him pursuant to subsection 1; or~~

~~(b) Provide written proof to the owner or his agent or employee that the person has received previous instruction in the safe use of the aquatic device.~~

~~3. A person shall not use or authorize another person to use an aquatic device under his control on any waters of this State unless each user of the aquatic device who is less than 13 years of age is wearing a personal flotation device of the type prescribed pursuant to subsection 1.~~

~~4. As used in this section, "aquatic device" means:~~

~~(a) An inflatable inner tube;~~

~~(b) A small, flexible plastic or inflatable raft; or~~

~~(c) A single chambered device that is inflated with air.~~

~~The term does not include a device which is classified as a vessel or motorboat or which is used in an area that is designated for swimming.]~~

(Deleted by amendment.)

Sec. 2. NRS 488.575 is hereby amended to read as follows:

488.575 1. Except as otherwise provided in subsection 2, a person shall not operate or authorize another person to operate a vessel under his ownership or control on any waters of this State unless each person on the vessel who is less than ~~12~~ 13 years of age is wearing a personal flotation device of a type approved by the United States Coast Guard and prescribed by the regulations of the Commission while the vessel is under way.

2. The provisions of subsection 1 do not apply to persons on board:

(a) A commercial vessel licensed by the United States Coast Guard for the transportation of passengers for hire; or

(b) Any other vessel who are below the deck or inside a cabin of the vessel.

Sec. 3. ~~[1.—This section and section 1 of this act become effective upon passage and approval for the purpose of adopting regulations pursuant to section 1 of this act and on January 1, 2008, for all other purposes.~~

~~2.—Section 2 of this act becomes effective on October 1, 2007.]~~ (Deleted by amendment.)

Assemblyman Claborn moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 13.

Remarks by Assemblyman Claborn.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 228.

The following Senate amendment was read:

Amendment No. 849.

AN ACT relating to pest control; authorizing the Director of the State Department of Agriculture to refuse to issue a license to engage in pest control to a person who is convicted of certain ~~facts; prohibiting the Director from issuing such a license until the expiration of the period of the person's parole, probation or sentence;~~ **crimes; requiring an applicant for a license to engage in pest control to submit a complete set of his fingerprints to the Director under certain circumstances;** prohibiting a person ~~from engaging in a connection with a real estate transaction;~~ from engaging in certain pest control activities concerning wood-destroying pests or organisms without a license issued by the Director; **providing additional grounds for the Director to revoke, suspend or modify a license to engage in pest control;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from engaging in pest control activities without a license issued by the Director of the State Department of Agriculture. (NRS 555.280) "Pest control" means the business of using

pesticides and mechanical devices to control infestations of pests and the inspection for hire of houses and other structures. The term also includes the submission of reports, estimates or bids for the inspection or control of wood-destroying pests. (NRS 555.2667) Existing law further prohibits a person from engaging in various pest control activities concerning wood-destroying pests or organisms without a license issued by the Director, including, without limitation, ~~[conducting an inspection to identify or attempt to identify infestations or infections of houses by those pests and]~~ preparing inspection reports concerning ~~[the infestations or infections.]~~ **those pests or organisms.** (NRS 555.285)

Section 1 of this bill authorizes the Director to refuse to issue a license to ~~[engage in]~~ **perform** pest control to ~~[a person who is]~~ **certain persons who are** convicted of, or ~~[enters]~~ **enter** a plea of guilty or nolo contendere to, ~~[certain specified crimes, including, without limitation,]~~ **a felony or** any crime involving moral turpitude. Section 1 also ~~[prohibits the Director from issuing]~~ **requires an applicant for** a license to engage in pest control ~~[to such a person until the expiration of the person's parole, probation or sentence.]~~ **who is a primary principal or intends to act as a primary principal for a pest control business to submit a complete set of his fingerprints to the Director.** Additionally, section 1 sets forth grounds for the Director to refuse to issue ~~[such]~~ a license ~~[to]~~ **to perform pest control.**

Section 3 of this bill prohibits a person from ~~[engaging in certain pest control activities]~~ **altering an inspection report** concerning wood-destroying pests or organisms without a license issued by the Director. ~~[[If the pest control activities are conducted in connection with a real estate transaction. Those pest control activities include: (1) making an inspection to identify or attempt to identify infestations or infections of wood-destroying pests or organisms; (2) making or altering inspection reports concerning those infestations or infections; (3) making written or oral estimates or bids concerning the infestations or infections; and (4) submitting bids to do any work involving the application of pesticides to eliminate, exterminate, control or prevent the infestations or infections.]]~~

Existing law authorizes the Director to revoke, suspend or modify a license to engage in pest control if he finds that the licensee has engaged in certain activities. (NRS 555.350)

Section 3.5 of this bill expands those activities to include a conviction of the licensee of a felony or any crime involving moral turpitude.

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

Section 1. Chapter 555 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. The Director ~~is~~**

~~(a) May~~ **may refuse to issue a license to ~~[engage in]~~ perform pest control to any person who ~~has~~:**



(a) Is a primary principal or intends to act as a primary principal for a pest control business pursuant to NRS 555.3507; and

(b) Has been convicted of, or entered a plea of guilty or nolo contendere to, ~~(forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, engaging in pest control without a license, possessing for the purpose of sale any controlled substance)~~ a felony or any crime involving moral turpitude, in any court of competent jurisdiction in the United States or any other country.

~~† (b) Shall not issue a license to engage in pest control to a person specified in paragraph (a) until the expiration of the period of the person's parole, probation or sentence.~~

2. In addition to any other requirements set forth in this chapter, each applicant for a license to perform pest control specified in paragraph (a) of subsection 1 shall submit with his application a complete set of his fingerprints and written permission authorizing the Director to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. A suspension or revocation of a license to ~~(engage in)~~ perform pest control pursuant to NRS 555.350 or any previous revocation or current suspension of such a license in this or any other state, district or territory of the United States or any foreign country ~~(within 10 years immediately preceding the date of submission of an application for a license)~~ is grounds for refusal to issue the license.

Sec. 2. NRS 555.2605 is hereby amended to read as follows:

555.2605 As used in NRS 555.2605 to 555.460, inclusive, **and section 1 of this act**, unless the context otherwise requires, the words and terms defined in NRS 555.261 to 555.2695, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 555.285 is hereby amended to read as follows:

555.285 A person shall not, for hire, ~~for in connection with any real estate transaction,~~ engage in, offer to engage in, advertise or solicit to perform any of the following pest control activities concerning wood-destroying pests or organisms without a license issued by the Director:

1. Making an inspection to identify or to attempt to identify infestations or infections of households or other structures by those pests or organisms.

2. Making **or altering** inspection reports concerning the infestations or infections.

3. Making estimates or bids, whether written or oral, concerning the infestations or infections.

4. Submitting bids to perform any work involving the application of pesticides for the elimination, extermination, control or prevention of infestations or infections of those pests.

**Sec. 3.5. NRS 555.350 is hereby amended to read as follows:**

555.350 1. The Director may suspend, pending inquiry, for not longer than 10 days, and, after opportunity for a hearing, may revoke, suspend or modify any license issued under NRS 555.2605 to 555.460, inclusive, and section 1 of this act, if he finds that:

- (a) The licensee is no longer qualified;
- (b) The licensee has engaged in fraudulent business practices in pest control;
- (c) The licensee has made false or fraudulent claims through any media by misrepresenting the effect of materials or methods to be used;
- (d) The licensee has applied known ineffective or improper materials;
- (e) The licensee operated faulty or unsafe equipment;
- (f) The licensee has made any application in a faulty, careless or negligent manner;
- (g) The licensee has violated any of the provisions of NRS 555.2605 to 555.460, inclusive, and section 1 of this act, or regulations adopted pursuant thereto;
- (h) The licensee engaged in the business of pest control without having a licensed applicator or operator in direct on-the-job supervision;
- (i) The licensee aided or abetted a licensed or an unlicensed person to evade the provisions of NRS 555.2605 to 555.460, inclusive, and section 1 of this act, combined or conspired with such a licensee or an unlicensed person to evade the provisions, or allowed one's license to be used by an unlicensed person;
- (j) The licensee was intentionally guilty of fraud or deception in the procurement of his license; ~~for~~
- (k) The licensee was intentionally guilty of fraud or deception in the issuance of an inspection report on wood-destroying pests or other report required by regulation ~~for~~; or

(l) The licensee has been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving moral turpitude in any court of competent jurisdiction in the United States or any other country.

2. A license is suspended automatically, without action of the Director, if the proof of public liability and property damage or drift insurance filed pursuant to NRS 555.330, is cancelled, and the license remains suspended until the insurance is reestablished.

3. A licensee against whom the Director initiates disciplinary action to revoke, suspend or modify the license of the licensee pursuant to this section shall, within 30 days after receiving written notice of the disciplinary action from the Director, submit to the Director a complete set of his fingerprints and written permission authorizing the Director to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

4. A willful failure of a licensee to comply with the requirements of subsection 3 constitutes an additional ground for the revocation,

suspension or modification of the license of the licensee pursuant to this section.

**5. The Director has additional grounds to revoke, suspend or modify a license pursuant to this section if the report from the Federal Bureau of Investigation indicates that the licensee has been convicted of a felony or crime specified in paragraph (l) of subsection 1.**

Sec. 4. NRS 555.400 is hereby amended to read as follows:

555.400 1. The Director may adopt regulations to carry out the provisions of NRS 555.2605 to 555.460, inclusive, ~~but the~~ **and section 1 of this act.** The regulations must not be inconsistent with **any** regulations issued by this State or by the Federal Government relating to safety in air navigation or **the** operation of aircraft.

2. Before ~~issuing~~ **adopting** regulations directly relating to any matter within the jurisdiction of any other officer of this State, the Director shall consult with that officer ~~[with reference thereto.]~~ **concerning those regulations.**

Sec. 5. NRS 555.460 is hereby amended to read as follows:

555.460 Any person violating the provisions of NRS 555.2605 to 555.420, inclusive, **and section 1 of this act**, or the regulations adopted pursuant thereto, is guilty of a misdemeanor and, in addition to any criminal penalty, shall pay to the Department an administrative fine of not more than \$5,000 per violation. If an administrative fine is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Department.

Sec. 6. NRS 555.470 is hereby amended to read as follows:

555.470 1. The Director shall adopt regulations specifying a schedule of fines which may be imposed, upon notice and a hearing, for each violation of the provisions of NRS 555.2605 to 555.460, inclusive ~~[,]~~, **and section 1 of this act.** The maximum fine that may be imposed by the Director for each violation must not exceed \$5,000 per day. All fines collected by the Director pursuant to this subsection must be remitted to the county treasurer of the county in which the violation occurred for credit to the county school district fund.

2. The Director may:

(a) In addition to imposing a fine pursuant to subsection 1, issue an order requiring a violator to take appropriate action to correct the violation; or

(b) Request the district attorney of the appropriate county to investigate or file a criminal complaint against any person that the State Board of Agriculture suspects may have violated any provision of NRS 555.2605 to 555.460, inclusive ~~[,]~~, **and section 1 of this act.**

Sec. 7. This act becomes effective ~~[upon passage and approval.]~~ **on January 1, 2008.**

Assemblyman Claborn moved that the Assembly concur in the Senate amendment to Assembly Bill No. 228.

Remarks by Assemblyman Claborn.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Joint Resolution No. 9.

The following Senate amendment was read:

Amendment No. 743.

SUMMARY—Urges Congress to allow certain proceeds from the Southern Nevada Public Land Management Act **of 1998** to be used for Nevada's state parks. (BDR R-693)

ASSEMBLY JOINT RESOLUTION—Urging Congress to allow certain proceeds from the Southern Nevada Public Land Management Act **of 1998** to be used for Nevada's state parks.

WHEREAS, In 1998, Congress passed the Southern Nevada Public Land Management Act ~~of 1998~~, Public Law 105-263, which allows the ~~Bureau of Land Management~~ **Secretary of the Interior** to sell certain federal lands in Clark County, Nevada, for possible development and authorizes use of the proceeds to acquire, conserve and protect environmentally sensitive lands in the State of Nevada; and

WHEREAS, Under the provisions of the Act, 5 percent of the profits from sales of the land is allocated to help fund education, 10 percent is allocated for water and airport infrastructure projects and the remaining 85 percent is deposited into a special account for disbursement; and

WHEREAS, The money in the special account is specified for certain capital improvement projects, including projects at Lake Mead, Red Rock Canyon, the Desert National Wildlife Refuge and other federally managed recreational areas, the development of parks, trails and a multispecies habitat conservation plan in and around Clark County, the acquisition of environmentally sensitive lands, and restoration and conservation of the Lake Tahoe Basin; and

WHEREAS, Since the first auction of land in 1999, this Act has generated approximately \$3 billion, \$2.5 billion of which has been disbursed from the special account; and

WHEREAS, Although the money distributed pursuant to the Act has been used for the enhancement and conservation of many federally managed areas in Nevada, there are numerous state parks in Nevada which could also benefit from this money ; ~~including Valley of Fire, Cathedral Gorge, Spring Mountain Ranch, Dayton, Berlin Ichthyosaur and Rye Patch;~~ and

WHEREAS, With the growing popularity of the many rural recreational and historic sites in Nevada, it is vital that ~~these lands~~ **Nevada's state parks** be maintained and preserved for the continued enjoyment of the residents of Nevada and its tourists; now, therefore, be it

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That the members of the Nevada Legislature urge Congress to amend the Southern Nevada Public Land Management Act **of 1998** to

authorize the State of Nevada to use a portion of the money in the special account for the improvement and preservation of Nevada's state parks; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the United States Senate, the Speaker of the House of Representatives, the Secretary of the Interior and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Assemblyman Claborn moved that the Assembly concur in the Senate amendment to Assembly Joint Resolution No. 9.

Remarks by Assemblyman Claborn.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 67.

The following Senate amendment was read:

Amendment No. 742.

AN ACT relating to air pollution; authorizing the State Department of Conservation and Natural Resources to collect money from the sale of emission credits or allocations; increasing the maximum amount the State Environmental Commission may establish as an administrative fine for certain lesser violations relating to air pollution; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The State Department of Conservation and Natural Resources is designated as the Air Pollution Control Agency of the State for the purposes of the Clean Air Act, insofar as it pertains to state programs. (NRS 445B.135, 445B.205) Section 2 of this bill authorizes the Department to collect money from the sale of emission credits or allocations. Section 1 of this bill makes it a state policy periodically to retire a portion of the emission credits ~~or~~ **allocations.**

The State Environmental Commission is required by law to adopt regulations that set forth a schedule of administrative fines not exceeding \$500 for minor violations of certain statutes and regulations relating to the prevention, abatement and control of air pollution. (NRS 445B.640) Section 3 of this bill increases the maximum amount that the Commission may establish for such fines from \$500 to \$2,000.

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

Section 1. NRS 445B.100 is hereby amended to read as follows:

445B.100 1. It is the public policy of the State of Nevada and the purpose of NRS 445B.100 to 445B.640, inclusive, to achieve and maintain levels of air quality which will protect human health and safety, prevent

injury to plant and animal life, prevent damage to property, and preserve visibility and scenic, esthetic and historic values of the State.

2. It is the intent of NRS 445B.100 to 445B.640, inclusive, to:

(a) Require the use of reasonably available methods to prevent, reduce or control air pollution throughout the State of Nevada;

(b) Maintain cooperative programs between the State and its local governments; and

(c) Facilitate cooperation across jurisdictional lines in dealing with problems of air pollution not confined within a single jurisdiction.

3. The quality of air is declared to be affected with the public interest, and NRS 445B.100 to 445B.640, inclusive, are enacted in the exercise of the police power of this State to protect the health, peace, safety and general welfare of its people.

4. It is also the public policy of this State ~~to~~:

(a) *To* provide for the integration of all programs for the prevention of accidents in this State involving chemicals, including, without limitation, accidents involving hazardous air pollutants, highly hazardous chemicals, highly hazardous substances and extremely hazardous substances ~~to~~; *and*

(b) *Periodically to retire a portion of the emission credits or allocations specified in NRS 445B.235 that may otherwise be available for ~~use~~ banking or for sale pursuant to that section.*

Sec. 2. NRS 445B.235 is hereby amended to read as follows:

445B.235 *1.* In carrying out the purposes of NRS 445B.100 to 445B.640, inclusive, the Department may ~~to, if it considers it necessary or appropriate:~~

~~to~~:

(a) *Collect money from the sale of emission credits or allocations.*

(b) Cooperate with appropriate federal officers and agencies of the Federal Government, other states, interstate agencies, local governmental agencies and other interested parties in all matters relating to air pollution control in preventing or controlling the pollution of the air in any area.

~~to~~ (c) On behalf of this State, apply for and receive ~~funds~~ *money* made available to the State for programs from any private source or from any agency of the Federal Government under the Federal Act. All ~~moneys~~ *money* received from any federal agency or private source as provided in this section ~~shall~~ *must* be paid into the State Treasury and ~~shall~~ *must* be expended, under the direction of the Department, solely for the purpose ~~for purposes~~ for which the grant ~~or grants have~~ *has* been made.

~~to~~ (d) Certify to the appropriate federal authority that facilities are in conformity with the state program and requirements for control of air pollution, or will be in conformity with the state program and requirements for control of air pollution if such facility is constructed and operated in accordance with the application for certification.

~~to~~ (e) Develop measures for control of air pollution originating in the State.

2. All money collected by the Department pursuant to paragraph (a) of subsection 1 must be deposited in the State General Fund for credit to the Account for the Management of Air Quality.

3. ~~The [Commission shall, in cooperation with the Department, adopt regulations setting forth the requirements for the sale of emission credits pursuant to paragraph (a) of subsection 1. The regulations must include, without limitation, provisions for public participation in that sale.]~~  
Department shall:

(a) Develop proposed regulations establishing requirements for public participation in the determination by the Department of the amount of emission credits or allocations that are available for sale pursuant to paragraph (a) of subsection 1; and

(b) Recommend that the Commission adopt the proposed regulations pursuant to NRS 445B.210.

Sec. 3. NRS 445B.640 is hereby amended to read as follows:

445B.640 1. Except as otherwise provided in subsection 4 and NRS 445C.010 to 445C.120, inclusive, any person who violates any provision of NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, or any regulation in force pursuant thereto, other than NRS 445B.570 on confidential information, is guilty of a civil offense and shall pay an administrative fine levied by the Commission of not more than \$10,000 per day per offense. Each day of violation constitutes a separate offense.

2. The Commission shall by regulation establish a schedule of administrative fines not exceeding ~~[\$500]~~ **\$2,000** for lesser violations of any provision of NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, or any regulation in force pursuant thereto.

3. Action pursuant to subsection 1 or 2 is not a bar to enforcement of the provisions of NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, regulations in force pursuant thereto, and orders made pursuant to NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, by injunction or other appropriate remedy, and the Commission or the Director may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

4. Any person who fails to pay a fine levied pursuant to subsection 1 or 2 within 30 days after the fine is imposed is guilty of a misdemeanor. The provisions of this subsection do not apply to persons found by the court to be indigent.

5. All administrative fines collected by the Commission pursuant to this section must be deposited in the county school district fund of the county where the violation occurred.

Sec. 4. This act becomes effective upon passage and approval.

Assemblyman Claborn moved that the Assembly concur in the Senate amendment to Assembly Bill No. 67.

Remarks by Assemblyman Claborn.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 91.

The following Senate amendment was read:

Amendment No. 828.

AN ACT relating to explosives; establishing a definition of the term “explosive”; enacting provisions relating to the labeling of containers used for storing explosives; establishing requirements concerning the making of mandatory reports regarding the distribution of explosives under certain circumstances; revising the provisions relating to records regarding transactions and inventories of explosives; revising provisions relating to the storage of explosives; **providing that certain activities, substances and items that are exempt from certain federal laws are also exempt from certain state laws**; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Section 2 of this bill establishes a definition of the term “explosive” for the purposes of certain provisions relating to explosives. Section 3 of this bill provides that any container used to store an explosive must be properly labeled in accordance with all applicable state and federal laws and regulations. Section 4 of this bill makes it a gross misdemeanor for a person to fail to make a report to a local law enforcement agency and fire department if he has knowledge of any unusual circumstances involving explosives. Section 4 of this bill excludes from its application persons working in their official capacities in the mining industry. **Section 4.5 of this bill provides that certain activities, substances and items that are exempt from certain federal laws are also exempt from certain state laws.** Section 5 of this bill requires persons who conduct certain transactions involving explosives to create and maintain certain written records and inventories concerning those transactions and prohibits such persons from falsifying such records or failing to create or maintain such records. Section 5 of this bill also requires persons to store explosives in conformity with federal law and requires persons who store explosives to notify a local law enforcement agency and fire department of certain information relating to that storage. Section 5 of this bill excludes from its application persons working in their official capacities in the mining industry.

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

Section 1. Chapter 476 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 ~~1, 3 and 4~~ to **4.5, inclusive**, of this act.

Sec. 2. *As used in this chapter, “explosive” means any explosive material included in the list of explosive materials published in the Federal*



*Register and revised annually by the Attorney General of the United States pursuant to 18 U.S.C. §§ 841 et seq.*

Sec. 3. *Any container used to store an explosive must be marked in accordance with all applicable state and federal laws and regulations.*

Sec. 4. 1. *Except as otherwise provided in subsection 3, any person who has knowledge of an unusual sale, purchase, theft or loss of any explosive shall, within 24 hours after the discovery, report the sale, purchase, theft or loss to the local law enforcement agency and local fire department in whose jurisdiction the sale, purchase, theft or loss occurred. The report must contain, when possible:*

(a) *The name, birth date and address of the persons involved.*

(b) *The amount and type of explosive involved.*

(c) *Any other information the person making the report believes to be useful.*

2. *Any person who violates the provisions of this section is guilty of a gross misdemeanor.*

3. *The provisions of this section do not apply with respect to a person who is acting in his official capacity as an owner, officer or employee of a company, corporation or partnership engaged in the business of mining.*

4. *For the purposes of this section, there is a rebuttable presumption that a sale, purchase, theft or loss of any explosive is “unusual” if that type of sale, purchase, theft or loss does not regularly occur in the ordinary course of business.*

Sec. 4.5. *If the provisions of chapter 40 of Title 18 of the United States Code do not apply to an activity, substance or item pursuant to 18 U.S.C. § 845(a), this chapter does not apply to the activity, substance or item.*

Sec. 5. NRS 476.010 is hereby amended to read as follows:

476.010 1. Except in the due course of trade ~~{-}~~ *or as otherwise provided in subsection 9*, it is unlawful for any dealer in dynamite, nitroglycerine, gunpowder or *any* other ~~{high}~~ explosive to ~~{dispose of, transfer or sell}~~ *distribute* to any person, in any unusual manner, an excessive amount of such commodities.

2. ~~{A record shall be kept by all dealers in such commodities of all such sales of the same made by them, showing the purpose for which the same is to be used and to whom sold.}~~

3. ~~No such sale of such commodities shall be made to any person except upon a signed order delivered to the merchant dealing in the same, stating the purpose and use to which the same is to be put.}~~

4. ~~{It is unlawful for any person to manufacture, import, purchase or distribute any explosive without creating and maintaining a written record that includes the information required pursuant to this section.}~~

3. *If a person involved in a transaction is not a business or governmental entity or an agent of a business or governmental entity, the written record required pursuant to subsection 2 must include all the following information:*

- (a) *The name of the person.*
- (b) *The signature of the person.*
- (c) *The driver's license number of the person.*
- (d) *The residential address of the person.*
- (e) *The date of the transaction.*
- (f) *A statement of intended use.*

4. *If a person involved in a transaction is a business or governmental entity or an agent of a business or governmental entity, the written record required pursuant to subsection 2 must include all the following information with respect to the business or governmental entity and the agent of the business or governmental entity, if appropriate:*

- (a) *The name of the business or governmental entity.*
- (b) *The taxpayer identification number of the business or governmental entity.*
- (c) *The principal and local addresses of the business or governmental entity.*
- (d) *The name and any other appropriate personal identifying information that is sufficient to identify the agent authorized to act for the business or governmental entity.*
- (e) *The date of the transaction.*
- (f) *A statement of intended use.*

5. *It is unlawful for any person to knowingly and intentionally:*

- (a) *Make any false or misleading entry in a written record required pursuant to subsection 2; or*
- (b) *Fail to make an entry in a written record required pursuant to subsection 2.*

6. *Any person who keeps any explosive for any purpose shall do so in conformity with the regulations governing the storage of explosives promulgated by the Attorney General of the United States pursuant to 18 U.S.C. § 842 and set forth in 27 C.F.R. §§ 555.201 et seq.*

7. *Any person who stores any explosive shall, within 24 hours after beginning to store the explosive, notify the local law enforcement agency and local fire department in whose jurisdiction the explosive is stored of:*

- (a) *The type of explosive that is being stored; and*
- (b) *The location of the site where the explosive is stored.*

8. *Any person ~~violating~~ who violates the provisions of this section ~~shall be~~ is guilty of a gross misdemeanor.*

9. *The provisions of this section do not apply with respect to a person who is acting in his official capacity as an owner, officer or employee of a company, corporation or partnership engaged in the business of mining.*

10. *As used in this section:*

- (a) *"Distribute" means to sell, issue, give, transfer or otherwise dispose of an explosive.*
- (b) *"Person" means any of the following:*
  - (1) *A natural person.*

*(2) Any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or unincorporated organization.*

*(3) A government, a political subdivision of a government or an agency or instrumentality of a government or a political subdivision of a government.*

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 91.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 51.

The following Senate amendment was read:

Amendment No. 936.

SUMMARY—Revises provisions pertaining to the disclosure of certain information regarding ~~an applicant for a position as a firefighter with a fire-fighting agency~~ **applicants for certain positions with public safety agencies.** (BDR 19-247)

AN ACT relating to employment; requiring an employer or former employer of a person who is an applicant for a position as a firefighter with a fire-fighting agency to provide certain information regarding the applicant to the fire-fighting agency under certain circumstances; providing immunity from civil liability in certain circumstances for an employer or former employer who provides such information; **revising provisions governing the sharing of information concerning applicants for certain positions with public safety agencies;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a law enforcement agency is authorized to request an employer or former employer of a person who is an applicant for a position as a peace officer with the law enforcement agency to provide certain information regarding the employment history of the applicant to the law enforcement agency under certain circumstances. (NRS 239B.020) An employer is immune from civil liability under certain circumstances for providing such information. (NRS 41.755) This bill expands the authority to request information regarding the employment history of an applicant to fire-fighting agencies ~~[. This bill also]~~ **and** extends immunity from civil liability to employers who disclose such information to fire-fighting agencies under certain circumstances. **This bill also places restrictions on the sharing of information concerning applicants for certain positions with a public safety agency.**

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

Section 1. NRS 239B.020 is hereby amended to read as follows:

239B.020 1. Upon the request of a ~~law enforcement~~ **public safety** agency, an employer shall provide to the ~~law enforcement~~ **public safety** agency information, if available, regarding a current or former employee of the employer who is an applicant for the position of **firefighter or** peace officer, *as applicable*, with the ~~law enforcement~~ **public safety** agency. A request for information by a ~~law enforcement~~ **public safety** agency pursuant to this subsection must be:

(a) In writing;

(b) Accompanied by an authorization signed by the applicant and notarized by a notary public or judicial officer in which the applicant consents to the release of the information; and

(c) Presented to the employer by a sworn officer or other authorized representative of the ~~law enforcement~~ **public safety** agency.

2. The information that a ~~law enforcement~~ **public safety** agency may request pursuant to subsection 1 includes, without limitation:

(a) The date on which the applicant began his employment and, if applicable, the date on which the employment of the applicant was terminated;

(b) A list of the compensation that the employer provided to the applicant during the course of the employment;

(c) An application for a position of employment that the applicant submitted to the employer;

(d) A written evaluation of the performance of the applicant;

(e) A record of the attendance of the applicant;

(f) A record of disciplinary action taken against the applicant;

(g) A statement regarding whether the employer would rehire the applicant and, if the employer would not rehire the applicant, the reasons therefor; and

(h) If applicable, a record setting forth the reason that the employment of the applicant was terminated and whether the termination was voluntary or involuntary.

3. An employer shall not provide information pursuant to subsection 1 if the disclosure of the information is prohibited pursuant to a federal or state statute or regulation.

4. A ~~law enforcement~~ **public safety** agency may use the information that it receives pursuant to this section only to determine the suitability of an applicant for employment as a **firefighter or** peace officer ~~[-], as applicable.~~

5. Except as otherwise provided in this subsection, a ~~law enforcement~~ **public safety** agency shall maintain the confidentiality of information that it receives pursuant to this section. A ~~law enforcement~~ **public safety** agency

may share information regarding an applicant that it receives pursuant to this section with another ~~law enforcement~~ **public safety** agency if:

(a) The applicant is also an applicant for a position as a **firefighter or** peace officer, *as applicable*, with the other ~~law enforcement~~ **public safety** agency ~~and~~ the applicant submitted a single application to be used by multiple public safety agencies; and

(b) The confidentiality of the information is otherwise maintained.

6. As used in this section:

(a) "Employer" includes a public employer and a private employer.

(b) **"Firefighter"** means a person who is a salaried employee of a fire-fighting agency and whose principal duties are to control, extinguish, prevent and suppress fires.

(c) **"Fire-fighting agency"** means a public fire department, fire protection district or other agency of this State or a political subdivision of this State, the primary functions of which are to control, extinguish, prevent and suppress fires.

~~[(d)] "Law enforcement agency" has the meaning ascribed to it in NRS 277.035.~~

~~[(e)]~~ ~~[(c)]~~ (d) "Peace officer" has the meaning ascribed to it in NRS 289.010.

~~[(f)]~~ (e) **"Public safety agency" means:**

(1) A fire-fighting agency; or

(2) A law enforcement agency ~~as defined in NRS 277.035.~~

Sec. 2. NRS 41.755 is hereby amended to read as follows:

41.755 1. Except as otherwise provided in subsection 3, an employer who, at the request of an employee, discloses information regarding:

(a) The ability of the employee to perform his job;

(b) The diligence, skill or reliability with which the employee carried out the duties of his job; or

(c) An illegal or wrongful act committed by the employee,

→ to a prospective employer of that employee is immune from civil liability for such disclosure and its consequences.

2. Except as otherwise provided in subsection 3, an employer who discloses information regarding an employee to a ~~law enforcement~~ **public safety** agency pursuant to NRS 239B.020 is immune from civil liability for such disclosure and its consequences.

3. An employer is not immune from civil liability for a disclosure made pursuant to subsection 1 or NRS 239B.020 or for the consequences of a disclosure made pursuant to subsection 1 or NRS 239B.020 if the employer:

(a) Acted with malice or ill will;

(b) Disclosed information that he believed was inaccurate;

(c) Disclosed information which he had no reasonable grounds for believing was accurate;

(d) Recklessly or intentionally disclosed inaccurate information;

(e) Deliberately disclosed misleading information; or

(f) Disclosed information in violation of a state or federal law or in violation of an agreement with the employee.

4. As used in this section:

(a) "Employee" means a person who currently renders or previously rendered time and services to an employer.

(b) "Employer" includes an employee or agent of an employer who is authorized by the employer to disclose information regarding an employee.

**(c) "Public safety agency" has the meaning ascribed to it in NRS 239B.020.**

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 51.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 120.

The following Senate amendment was read:

Amendment No. 882.

AN ACT relating to land use planning; revising the notice requirements for proposals to vacate certain rights-of-way or easements; providing requirements for notice to certain public utilities and television companies regarding proposals to abandon or vacate certain streets; requiring cities and counties to reserve and convey certain easements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill changes the method by which a city or county that proposes to vacate a right-of-way or easement owned by the city or county, which right-of-way or easement is required for a public purpose, must notify each owner of property abutting the proposed abandonment. This bill requires such notice to be made in a manner that provides confirmation of delivery but does not require the signature of the recipient. (NRS 278.480) This bill also requires a city or county to provide notice to certain public utilities and community antenna television companies before vacating or abandoning a street, and to reserve and convey an easement to the utility or television company if the utility or television company so requests. (NRS 278.480)

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

Section 1. NRS 278.480 is hereby amended to read as follows:

278.480 1. Except as otherwise provided in subsection 11, any abutting owner or local government desiring the vacation or abandonment of any street or easement owned by a city or a county, or any portion thereof, shall file a petition in writing with the planning commission or the governing body having jurisdiction.

2. The governing body may establish by ordinance a procedure by which, after compliance with the requirements for notification of public hearing set forth in this section, a vacation or abandonment of a street or an easement may be approved in conjunction with the approval of a tentative map pursuant to NRS 278.349.

3. A government patent easement which is no longer required for a public purpose may be vacated by:

- (a) The governing body; or
- (b) The planning commission, hearing examiner or other designee, if authorized to take final action by the governing body,
  - ➡ without conducting a hearing on the vacation if the applicant for the vacation obtains the written consent of each owner of property abutting the proposed vacation and any utility that is affected by the proposed vacation.

4. Except as otherwise provided in subsection 3, if any right-of-way ~~held in fee~~ or easement required for a public purpose that is owned by a city or a county is proposed to be vacated, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, shall ~~notify by certified mail~~, **not less than 10 business days before the public hearing described in subsection 5:**

(a) **Notify** each owner of property abutting the proposed abandonment . ~~[and cause]~~ **Such notice must be provided by mail pursuant to a method that provides confirmation of delivery and does not require the signature of the recipient.**

(b) **Cause** a notice to be published at least once in a newspaper of general circulation in the city or county, setting forth the extent of the proposed abandonment and setting a date for public hearing . ~~[which must be not less than 10 days and not more than 40 days after the date the notice is first published.]~~

5. Except as **otherwise** provided in subsection 6, if, upon public hearing, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, is satisfied that the public will not be materially injured by the proposed vacation, it shall order the street or easement vacated. The governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, may make the order conditional, and the order becomes effective only upon the fulfillment of the conditions prescribed. An applicant or other person aggrieved by the decision of the planning commission, hearing examiner or other designee may appeal the decision in accordance with the ordinance adopted pursuant to NRS 278.3195.

6. ~~[If a utility has an easement over the property,]~~ **In addition to any other applicable requirements set forth in this section, before vacating or abandoning a street,** the governing body ~~[ ]~~ **of the local government having jurisdiction over the street,** or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, shall

provide ~~[in its order for the continuation of that easement.]~~ *each public utility and community antenna television company serving the affected area with written notice that a petition has been filed requesting the vacation or abandonment of the street. After receiving the written notice, the public utility or community antenna television company, as applicable, shall respond in writing, indicating either that the public utility or community antenna television company, as applicable, does not require an easement or that the public utility or community antenna television company, as applicable, wishes to request the reservation of an easement. If a public utility or community antenna television company indicates in writing that it wishes to request the reservation of an easement, the governing body of the local government having jurisdiction over the street that is proposed to be vacated or abandoned, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, shall reserve and convey an easement in favor of the public utility or community antenna television company, as applicable, and shall ensure that such easement is recorded in the office of the county recorder.*

7. The order must be recorded in the office of the county recorder, if all the conditions of the order have been fulfilled, and upon the recordation, title to the street or easement reverts to the abutting property owners in the approximate proportion that the property was dedicated by the abutting property owners or their predecessors in interest. In the event of a partial vacation of a street where the vacated portion is separated from the property from which it was acquired by the unvacated portion of it, the governing body may sell the vacated portion upon such terms and conditions as it deems desirable and in the best interests of the city or county. If the governing body sells the vacated portion, it shall afford the right of first refusal to each abutting property owner as to that part of the vacated portion which abuts his property, but no action may be taken by the governing body to force the owner to purchase that portion and that portion may not be sold to any person other than the owner if the sale would result in a complete loss of access to a street from the abutting property.

8. If the street was acquired by dedication from the abutting property owners or their predecessors in interest, no payment is required for title to the proportionate part of the street reverted to each abutting property owner. If the street was not acquired by dedication, the governing body may make its order conditional upon payment by the abutting property owners for their proportionate part of the street of such consideration as the governing body determines to be reasonable. If the governing body determines that the vacation has a public benefit, it may apply the benefit as an offset against a determination of reasonable consideration which did not take into account the public benefit.



9. If an easement for light and air owned by a city or a county is adjacent to a street vacated pursuant to the provisions of this section, the easement is vacated upon the vacation of the street.

10. In any vacation or abandonment of any street owned by a city or a county, or any portion thereof, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, may reserve and except therefrom all easements, rights or interests therein which the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, deems desirable for the use of the city ~~[- the county or any public utility.]~~ **or county.**

11. The governing body may establish by local ordinance a simplified procedure for the vacation or abandonment of an easement for a public utility owned or controlled by the governing body.

12. As used in this section ~~[-“government”]~~ :

*(a) “Community antenna television company” has the meaning ascribed to it in NRS 711.030.*

*(b) “Government patent easement” means an easement for a public purpose owned by the governing body over land which was conveyed by a patent.*

*(c) “Public utility” has the meaning ascribed to it in NRS 360.815.*

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

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 120.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

#### SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Senate Bills Nos. 312, 315, and 367.

Assemblyman Ocegüera moved that the Assembly adjourn until Monday, May 28, 2007, at 11 a.m.

Motion carried.

Assembly adjourned at 1:14 p.m.

Approved:

BARBARA E. BUCKLEY  
*Speaker of the Assembly*

Attest: SUSAN FURLONG REIL  
*Chief Clerk of the Assembly*