THE ONE HUNDRED AND THIRTEENTH DAY

CARSON CITY (Monday), May 28, 2007

Assembly called to order at 11:28 a.m.

Madam Speaker presiding.

Roll called.

All present except Assemblyman Munford, who was excused.

Prayer by the Chaplain, Pastor Bruce Henderson.

Jesus said, "Greater love has no one than this, that one lay down his life for his friends." Father, today we remember and honor those who have given their lives for the nation they love. We thank You for their love and their sacrifice and ask You today to be with our servicemen and women who are risking their lives because of the same spirit of love. We pray in the name of the Ultimate Sacrifice.

AMEN.

Pledge of allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 271, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 186, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

Madam Speaker:

Your Concurrent Committee on Ways and Means, to which was referred Assembly Bill No. 591, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

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, as amended, Assembly Bill No. 485.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 490 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 186.

Bill read third time.

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

Amendment No. 1043.

SUMMARY—Revises various provisions relating to economic and energy development. (BDR ~~[58-784)]~~ **S-784)**

AN ACT relating to economic and energy development; ~~[creating the Advisory Board for the Development of the Solar Energy Industry; revising various provisions governing partial abatements of certain taxes by the Commission on Economic Development;]~~ revising various provisions governing the Solar Energy Systems Demonstration Program Act; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Under existing law, one of the components of the State's energy policy is to encourage, support and accelerate the development of Nevada's renewable energy resources, such as solar energy. (Chapter 701 of NRS) Sections 2-8 of this bill create the Advisory Board for the Development of the Solar Energy Industry and establish its organizational structure and procedures. Sections 2-8 also prescribe the duties of the Advisory Board, which include: (1) working with economic development agencies and officials to develop incentives which may be offered to businesses in the solar energy industry that intend to locate or expand their operations in Nevada; (2) identifying and studying photovoltaic technologies and other emerging solar energy technologies which have the potential to reduce the cost of electricity generated by solar energy systems; and (3) developing and carrying out a program of Solar Energy Challenge Zones.~~

~~Existing law authorizes the Commission on Economic Development to approve partial abatements of certain taxes imposed on new or expanded businesses. (NRS 360.750) Sections 9, 10 and 13 of this bill require a business that receives such a partial abatement to: (1) allow the Department of Taxation to conduct audits of the business to determine whether it is in compliance with the requirements for the partial abatement; and (2) consent to the disclosure of the audit reports to the Commission on Economic Development and to the public with certain limited exceptions.]~~

Under the Solar Energy Systems Demonstration Program Act, a certain number of schools which install solar energy systems are entitled to participate in the Demonstration Program and receive portfolio energy credits

that may be sold to utilities seeking to comply with the portfolio standards. (Chapter 331, Statutes of Nevada 2003, pp. 1868-71) Section 11 of this bill increases the number of schools that may participate in the Demonstration Program and increases the kilowatts of capacity for solar energy systems in schools from 570 kilowatts to 2 megawatts for the years 2007, 2008 and 2009.

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

Section 1. ~~[Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.]~~ **(Deleted by amendment.)**

Sec. 2. ~~*[As used in sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.]*~~ **(Deleted by amendment.)**

Sec. 3. ~~*["Advisory Board" means the Advisory Board for the Development of the Solar Energy Industry that is created by section 5 of this act.]*~~ **(Deleted by amendment.)**

Sec. 4. ~~*["Portfolio standard" has the meaning ascribed to it in NRS 704.7805.]*~~ **(Deleted by amendment.)**

Sec. 5. ~~*[1. The Advisory Board for the Development of the Solar Energy Industry is hereby created.*~~

~~*2. The Advisory Board consists of the Lieutenant Governor and six additional members appointed as follows:*~~

~~*(a) Two members appointed by the Lieutenant Governor.*~~

~~*(b) Two members appointed by the Majority Leader of the Senate.*~~

~~*(c) Two members appointed by the Speaker of the Assembly.*~~

~~*3. An appointed member of the Advisory Board must be a citizen of the United States and a resident of this State.*~~

~~*4. After the initial terms, the term of each appointed member of the Advisory Board is 3 years. A vacancy on the Advisory Board must be filled for the remainder of the unexpired term in the same manner as the original appointment. A member may be reappointed to the Advisory Board.*~~

~~*5. Except as otherwise provided in this subsection, the appointed members of the Advisory Board serve without compensation and are not entitled to the per diem and travel expenses provided for state officers and employees generally. For each day of attendance at a meeting of the Advisory Board and while engaged in the business of the Advisory Board, a member of the Advisory Board who is an officer or employee of this State or a political subdivision of this State is entitled to receive the per diem and travel expenses provided for state officers and employees generally, paid by his governmental employer.*~~

~~*6. A member of the Advisory Board who is an officer or employee of this State or a political subdivision of this State must be relieved from his duties*~~

~~*without loss of his regular compensation so that he may prepare for and attend meetings of the Advisory Board and perform any work that is necessary to carry out the duties of the Advisory Board in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Advisory Board to:*~~

~~*(a) Make up the time he is absent from work to carry out his duties as a member of the Advisory Board; or*~~

~~*(b) Take annual leave or compensatory time for the absence.*~~

~~*7. Notwithstanding any other provision of law, a member of the Advisory Board:*~~

~~*(a) Is not disqualified from public employment or holding a public office because of his membership on the Advisory Board; and*~~

~~*(b) Does not forfeit his public office or public employment because of his membership on the Advisory Board.]*~~ **(Deleted by amendment.)**

Sec. 6. ~~*[1. The Lieutenant Governor serves as the Chairman of the Advisory Board.*~~

~~*2. The members of the Advisory Board shall select a Vice Chairman from among the appointed members. The Vice Chairman shall perform the duties of the Chairman during any absence of the Chairman. The Vice Chairman serves in that position for a term of 1 year. If a vacancy occurs in the Vice Chairmanship, the vacancy must be filled for the remainder of the unexpired term in the same manner as the original selection.*~~

~~*3. A majority of the members of the Advisory Board constitutes a quorum. A majority of the members present during a quorum may exercise all the power and authority conferred on the Advisory Board.*~~

~~*4. The Advisory Board shall meet at least four times annually and may meet more frequently at the discretion of the Chairman.*~~

~~*5. All meetings of the Advisory Board must be conducted in accordance with the provisions of chapter 241 of NRS.*~~

~~*6. The Office of Energy shall provide the Advisory Board with administrative and clerical support and with such other assistance as may be necessary for the Advisory Board to carry out its duties. Such support and assistance must include, without limitation, making arrangements for facilities, equipment and other services in preparation for and during meetings.]*~~ **(Deleted by amendment.)**

Sec. 7. ~~*[The Advisory Board shall:*~~

~~*1. Formulate policies and plans to encourage, support and accelerate the development of the solar energy industry in this State.*~~

~~*2. Work with state, regional and local economic development agencies and officials to develop incentives which may be offered to businesses in the solar energy industry that intend to locate or expand their operations in this State.*~~

~~*3. Identify and study photovoltaic technologies and other emerging solar energy technologies which have the potential to reduce the cost of electricity generated by solar energy systems.*~~

~~*4. Take any other actions the Advisory Board deems necessary to promote the development of the solar energy industry in this State.]*~~ **(Deleted by amendment.)**

Sec. 8. ~~*[1. The Advisory Board shall develop and carry out a program of Solar Energy Challenge Zones.*~~

~~*2. In developing and carrying out the program, the Advisory Board shall:*~~

~~*(a) Designate at least one Solar Energy Challenge Zone covering, in whole or in part, the Las Vegas Strip and any areas adjacent to the Las Vegas Strip that are appropriate for inclusion in the Solar Energy Challenge Zone; and*~~

~~*(b) Work with local governments, utilities, businesses, environmental advocates and other interested persons to identify and designate other Solar Energy Challenge Zones in this State.*~~

~~*3. For each Solar Energy Challenge Zone, the Advisory Board shall:*~~

~~*(a) Develop, in cooperation with local governments, utilities, businesses, environmental advocates and other interested persons, a target price per kilowatt hour for electricity generated from solar energy systems that is significantly less than the prevailing price per kilowatt hour for electricity generated from such systems; and*~~

~~*(b) Offer that target price in a standard offer contract to any business which is willing to accept the challenge of manufacturing or installing solar energy systems that are able to generate electricity at that target price.*~~

~~*4. The Advisory Board may submit such a standard offer contract to the Public Utilities Commission of Nevada for approval as a renewable energy contract for the purposes of the portfolio standard.]*~~ **(Deleted by amendment.)**

Sec. 9. ~~[Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. If the Commission on Economic Development approves an application by a business for a partial abatement pursuant to NRS 360.750, the agreement with the Commission must provide that the business:*~~

~~*(a) Agrees to allow the Department to conduct audits of the business to determine whether the business is in compliance with the requirements for the partial abatement; and*~~

~~*(b) Consents to the disclosure of the audit reports in the manner set forth in this section.*~~

~~*2. If the Department conducts an audit of the business to determine whether the business is in compliance with the requirements for the partial abatement, the Department shall, upon request, provide the audit report to the Commission on Economic Development.*~~

~~*3. Until the business has exhausted all appeals to the Department and the Nevada Tax Commission relating to the audit, the information contained in the audit report provided to the Commission on Economic Development:*~~

~~*(a) Is confidential proprietary information of the business;*~~

~~*(b) Is not a public record; and*~~

~~*(c) Must not be disclosed to any person who is not an officer or employee of the Commission on Economic Development unless the business consents to the disclosure.*~~

~~*4. After the business has exhausted all appeals to the Department and the Nevada Tax Commission relating to the audit:*~~

~~*(a) The audit report provided to the Commission on Economic Development is a public record; and*~~

~~*(b) Upon request by any person, the Executive Director of the Commission on Economic Development shall disclose the audit report to the person who made the request, except for any information in the audit report that is protected from disclosure pursuant to subsection 5.*~~

~~*5. Before the Executive Director of the Commission on Economic Development discloses the audit report to the public, the business may submit a request to the Executive Director to protect from disclosure any information in the audit report which, under generally accepted business practices, would be considered a trade secret or other confidential proprietary information of the business. After consulting with the business, the Executive Director shall determine whether to protect the information from disclosure. The decision of the Executive Director is final and is not subject to judicial review. If the Executive Director determines to protect the information from disclosure, the protected information:*~~

~~*(a) Is confidential proprietary information of the business;*~~

~~*(b) Is not a public record;*~~

~~*(c) Must be redacted by the Executive Director from any audit report that is disclosed to the public; and*~~

~~*(d) Must not be disclosed to any person who is not an officer or employee of the Commission on Economic Development unless the business consents to the disclosure.]*~~ **(Deleted by amendment.)**

Sec. 10. ~~[~~NRS 360.750 is hereby amended to read as follows:

~~360.750 1. A person who intends to locate or expand a business in this State may apply to the Commission on Economic Development for a partial abatement of one or more of the taxes imposed on the new or expanded business pursuant to chapter 361, 363B or 374 of NRS.~~

~~2. The Commission on Economic Development shall approve an application for a partial abatement if the Commission makes the following determinations:~~

~~(a) The business is consistent with:~~

~~(1) The State Plan for Industrial Development and Diversification that is developed by the Commission pursuant to NRS 231.067; and~~

~~(2) Any guidelines adopted pursuant to the State Plan.~~

~~(b) The applicant has executed an agreement with the Commission which [states] *must:*~~

~~*(1) Comply with the requirements of section 9 of this act;*~~

~~*(2) State* that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 5, continue in operation in this State for a period specified by the Commission, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection [. The agreement must bind]*; and*~~

~~*(3) Bind* the successors in interest of the business for the specified period.~~

~~(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.~~

~~(d) Except as otherwise provided in NRS 361.0687, 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, the business meets at least two of the following requirements:~~

~~(1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.~~

~~(2) Establishing the business will require the business to make a capital investment of at least $1,000,000 in this State.~~

~~(3) 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 and:~~

~~(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and~~

~~(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.~~

~~(e) Except as otherwise provided in NRS 361.0687, 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, the business meets at least two of the following requirements:~~

~~(1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.~~

~~(2) Establishing the business will require the business to make a capital investment of at least $250,000 in this State.~~

~~(3) 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 and:~~

~~(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and~~

~~(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.~~

~~(f) If the business is an existing business, the business meets at least two of the following requirements:~~

~~(1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.~~

~~(2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:~~

~~(I) County assessor of the county in which the business will expand, if the business is locally assessed; or~~

~~(II) Department, if the business is centrally assessed.~~

~~(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:~~

~~(I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and~~

~~(II) The cost to the business for the benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 9.~~

~~(g) In lieu of meeting the requirements of paragraph (d), (e) or (f), if the business furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product, the business meets at least two of the following requirements:~~

~~(1) The business will have 10 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.~~

~~(2) Establishing the business will require the business to make a capital investment of at least $500,000 in this State.~~

~~(3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:~~

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet with minimum requirements established by the Commission by regulation pursuant to subsection 9.

3. Notwithstanding the provisions of subsection 2, the Commission on Economic Development:

(a) Shall not consider an application for a partial abatement unless the Commission has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) May, if the Commission determines that such action is necessary:

(1) Approve an application for a partial abatement by a business that does not meet the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2;

(2) Make the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement.

4. If a person submits an application to the Commission on Economic Development pursuant to subsection 1, the Commission shall provide notice to the governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the person intends to locate or expand a business. The notice required pursuant to this subsection must set forth the date, time and location of the hearing at which the Commission will consider the application.

5. If the Commission on Economic Development approves an application for a partial abatement, the Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer.

6. An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Commission on Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

7. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,

→ the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county

~~treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.~~

~~8. A county treasurer:~~

~~(a) Shall deposit any money that he receives pursuant to subsection 7 in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and~~

~~(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.~~

~~9. The Commission on Economic Development:~~

~~(a) Shall adopt regulations relating to:~~

~~(1) The minimum level of benefits that a business must provide to its employees if the business is going to use benefits paid to employees as a basis to qualify for a partial abatement; and~~

~~(2) The notice that must be provided pursuant to subsection 4.~~

~~(b) May adopt such other regulations as the Commission on Economic Development determines to be necessary to carry out the provisions of this section [.] *and section 9 of this act.*~~

~~10. The Nevada Tax Commission:~~

~~(a) Shall adopt regulations regarding:~~

~~(1) The capital investment that a new business must make to meet the requirement set forth in paragraph (d), (e) or (g) of subsection 2; and~~

~~(2) Any security that a business is required to post to qualify for a partial abatement pursuant to this section.~~

~~(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section [.] *and section 9 of this act.*~~

~~11. An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.]~~ **(Deleted by amendment.)**

Sec. 11. Section 18 of the Solar Energy Systems Demonstration Program Act, being chapter 331, Statutes of Nevada 2003, as amended by chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 88, is hereby amended to read as follows:

Sec. 18. 1. On or before May 1 of each year, the Public Utilities Commission of Nevada shall:

(a) Review each application nominated by the Committee to ensure that the application meets the requirements of subsection 3 of section 14 of this act; and

(b) From those nominees, select participants for the Demonstration Program for the following program year.

2. ~~[The]~~ ***Except as otherwise provided in subsection 4, the*** Public Utilities Commission of Nevada may approve, from among the applications nominated by the Committee, solar energy systems totaling:

(a) For the program year beginning July 1, 2004:

(1) 100 kilowatts of capacity for schools;

(2) 200 kilowatts of capacity for other public buildings; and

(3) 200 kilowatts of capacity for private residences and small businesses.

(b) For the program year beginning July 1, 2005:

(1) An additional 570 kilowatts of capacity for schools;

(2) An additional 570 kilowatts of capacity for other public buildings; and

(3) An additional 760 kilowatts of capacity for private residences and small businesses.

(c) For the program year beginning July 1, 2006:

(1) An additional 570 kilowatts of capacity for schools;

(2) An additional 570 kilowatts of capacity for other public buildings; and

(3) An additional 760 kilowatts of capacity for private residences and small businesses.

(d) For the program year beginning July 1, 2007:

(1) An additional ~~[570 kilowatts]~~ ***2 megawatts*** of capacity for schools;

(2) An additional 570 kilowatts of capacity for other public buildings; and

(3) An additional 760 kilowatts of capacity for private residences and small businesses.

(e) For the program year beginning July 1, 2008:

(1) An additional ~~[570 kilowatts]~~ ***2 megawatts*** of capacity for schools;

(2) An additional 570 kilowatts of capacity for other public buildings; and

(3) An additional 760 kilowatts of capacity for private residences and small businesses.

(f) For the program year beginning July 1, 2009:

(1) An additional ~~[570 kilowatts]~~ ***2 megawatts*** of capacity for schools;

(2) An additional 570 kilowatts of capacity for other public buildings; and

(3) An additional 760 kilowatts of capacity for private residences and small businesses.

3. The Public Utilities Commission of Nevada shall notify each nominee of its selections no later than 10 days after the decision is made.

4. To promote the installation of solar energy systems at as many schools as possible, the Public Utilities Commission of Nevada may not approve for use in the Demonstration Program a solar energy system having a generating capacity of more than 50 kilowatts if the solar energy system is or will be installed at a school on or after July 1, 2007, unless the Commission determines that approval of a solar energy system with a greater generating capacity is more practicable for a particular school.

Sec. 12. ~~[As soon as practicable on or after July 1, 2007:~~

~~1. The Lieutenant Governor shall appoint to the Advisory Board for the Development of the Solar Energy Industry two members whose terms expire on June 30, 2008.~~

~~2. The Majority Leader of the Senate shall appoint to the Advisory Board for the Development of the Solar Energy Industry:~~

~~(a) One member whose term expires on June 30, 2009; and~~

~~(b) One member whose term expires on June 30, 2010.~~

~~3. The Speaker of the Assembly shall appoint to the Advisory Board for the Development of the Solar Energy Industry:~~

~~(a) One member whose term expires on June 30, 2009; and~~

~~(b) One member whose term expires on June 30, 2010.]~~ **(Deleted by amendment.)**

Sec. 13. ~~[If, on July 1, 2007, the Commission on Economic Development and a business have in effect an agreement for a partial abatement of one or more taxes pursuant to NRS 360.750:~~

~~1. The agreement shall be deemed to include by operation of law the provisions required by section 9 of this act; and~~

~~2. The provisions of section 9 of this act shall be deemed to apply to the business notwithstanding any contrary provision in the agreement.]~~ **(Deleted by amendment.)**

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

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

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

Assembly Bill No. 271.

Bill read third time.

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

Amendment No. 953.

AN ACT making appropriations to the Division of Health Care Financing and Policy of the Department of Health and Human Services for relocation expenses and replacement vehicles, phone system and other equipment; and providing other matters properly relating thereto.

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

Section 1. There is hereby appropriated from the State General Fund to the Division of Health Care Financing and Policy of the Department of Health and Human Services:

1. For Health Care Financing and Policy, Administration, the sum of ~~[$200,302]~~ **$157,112** for expenses related to the relocation of the Las Vegas Office, purchase of a heavy duty color printer, surge protectors and computer software and replacement of servers, storage appliances, laptop and desktop computers and furniture.

2. For the Nevada Check Up Program, the sum of $13,373 for expenses related to the relocation of the Las Vegas Office.

3. For Nevada Medicaid, Title XIX, the sum of $354,264 for expenses related to the relocation of the Las Vegas Office, replacement of the Reno Office phone system and three replacement vehicles.

Sec. 2. Any remaining balance of the appropriations made by section 1 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriations are made or any entity to which money from the appropriations is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

Sec. 3. This act becomes effective upon passage and approval.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 591.

Bill read third time.

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

Amendment No. 1045.

AN ACT relating to education; revising provisions governing the sponsorship of charter schools; prescribing the circumstances under which certain charter schools are exempt from annual performance audits and are authorized to receive certain money for facilities; revising provisions regarding the membership of a governing body of a charter school; ~~[making an appropriation;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the board of trustees of a school district and the State Board of Education may sponsor charter schools. (NRS 386.515) **Section 17** of this bill authorizes a college or university within the Nevada System of Higher Education to sponsor charter schools. **Sections 1-14, 17-20, 25, 26 and 28** of this bill revise provisions to reflect sponsorship by a college or university.

Section 15 of this bill sets forth the requirements for a charter school that has been in operation for at least 5 years to be exempt from an annual performance audit and undergo a performance audit every 3 years and to be eligible for available money from legislative appropriation or otherwise for facilities. ~~[Section 30 of this bill makes an appropriation for those charter schools which satisfy the requirements for school facilities.]~~

Existing law requires the Department of Education and the sponsor of a charter school to provide certain assistance and information to charter schools. (NRS 386.545) **Section 22** of this bill expands the services that a school district must provide if the school district sponsors a charter school.

Existing law prescribes the membership of the governing body of a charter school. (NRS 386.549) Existing regulation of the Department of Education prohibits more than one member on the governing body representing the same nonprofit organization or business. (NAC 386.345) **Section 23** of this bill prohibits more than two persons who serve on the governing body from representing the same organization or business or otherwise representing the interests of the same organization or business.

Section 30 of A.B. No. 591 is hereby amended as follows:

Sec. 30. ~~[1. There is hereby appropriated from the State General Fund to the Department of Education the sum of $1,000,000 for distribution to charter schools that satisfy certain requirements for facilities for those charter schools.~~

~~2. The governing body of a charter school that satisfies the requirements of subsection 1 of section 15 of this act may submit an application to the Department of Education, on a form prescribed by the Department, for a grant of money in the amount of $250,000. The application must include proof satisfactory to the Department that the charter school satisfies the requirements of subsection 1 of section 15 of this act.~~

~~3. Upon receipt of an application and verification by the Department of Education that the charter school satisfies the requirements of subsection 1 of section 15 of this act, the Department shall provide the charter school with a grant of money in the amount of $250,000. A charter school that receives a grant of money shall use the money for facilities for the charter school.~~

~~4. Applications must be considered and accepted in the order in which the applications are received. A charter school that satisfies the requirements of subsection 1 of section 15 of this act is eligible for one grant pursuant to this section and may not reapply after it receives a grant.~~

~~5. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted~~

~~or transferred, and must be reverted to the State General Fund on or before September 16, 2011.]~~ **(Deleted by amendment.)**

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

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

Assemblyman Oceguera moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 11:37 a.m.

ASSEMBLY IN SESSION

At 11:39 a.m.

Madam Speaker presiding.

Quorum present.

Assemblyman Oceguera moved that for the balance of the session, the Assembly suspend all rules, dispense with the reprinting of all bills and resolutions, and place all bills and resolutions on the appropriate file for passage or adoption.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 186.

Bill read third time.

Remarks by Assemblyman Conklin.

Roll call on Assembly Bill No. 186:

YEAS—41.

NAYS—None.

EXCUSED—Munford.

Assembly Bill No. 186 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 271.

Bill read third time.

Roll call on Assembly Bill No. 271:

YEAS—41.

NAYS—None.

EXCUSED—Munford.

Assembly Bill No. 271 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 591.

Bill read third time.

Remarks by Assemblywoman Parnell.

Roll call on Assembly Bill No. 591:

YEAS—41.

NAYS—None.

EXCUSED—Munford.

Assembly Bill No. 591 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 625—AN ACT relating to court programs; reducing the allocation of administrative assessments for use by the Supreme Court to provide an allocation for specialty court programs; eliminating the requirement that the Court Administrator submit a domestic violence report in 2009; removing the provision that allows participation in biweekly counseling sessions instead of weekly sessions for persons who commit domestic battery and reside in an area where counseling programs are not offered; and providing other matters properly relating thereto.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that the action whereby the Assembly refused to concur in Senate Amendment No. 857 to Assembly Bill No. 404 be rescinded.

Remarks by Assemblyman Conklin.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

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 Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 404.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 373.

The following Senate amendment was read:

Amendment No. 805.

AN ACT relating to general improvement districts; ~~[authorizing the board of county commissioners in certain smaller counties to serve ex officio as the board of trustees of certain general improvement districts authorized to furnish streets and alleys; providing that such a district may overlap another general improvement district;]~~ **revising the provisions governing the circumstances under which a board of county commissioners may serve**

ex officio as the board of trustees of a general improvement district; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill authorizes the board of county commissioners in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties) to serve ex officio as the board of trustees of a general improvement district which is organized on or after July 1, 2007, and authorized to furnish streets and alleys. This bill also provides that the territory of such a district may overlap the territory of another general improvement district. **This bill also authorizes the board of county commissioners in any county to serve ex officio as the board of trustees of a general improvement district which is organized on or after July 1, 2007, and is authorized to exercise any of the basic powers that a district may exercise under existing law.** (NRS 318.0953)

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

Section 1. NRS 318.0953 is hereby amended to read as follows:

318.0953 1. In every county whose population is 400,000 or more, the board of county commissioners is, and in counties whose population is less than 400,000 the board of county commissioners may be ~~[,]~~ ex officio ~~[,]~~ the board of trustees of each district organized or reorganized pursuant to this chapter and authorized to exercise the basic power of furnishing facilities for sewerage as provided in NRS 318.140, without regard to whether the district is also authorized to furnish facilities for storm drainage, but excluding any district which is authorized, in addition to those basic powers, to exercise any one or more other basic powers designated in this chapter, except as ***otherwise*** provided in subsections 2 ~~[and 4.]~~ ***, 4 and 5.***

2. The board of county commissioners of any county may be, at its option, ex officio ~~[,]~~ the board of trustees of any district organized or reorganized pursuant to this chapter and authorized to exercise the basic power of furnishing facilities for water as provided in NRS 318.144, or ~~[,]~~ furnishing both facilities for water and facilities for sewerage as provided in NRS 318.144 and 318.140, respectively, without regard to whether the district is also authorized to furnish facilities for storm drainage, but excluding any district which:

(a) Is authorized, in addition to its basic powers, to exercise any one or more other basic powers designated in this chapter ~~[.]~~ ***, except as otherwise provided in subsection 4.***

(b) Is organized or reorganized pursuant to this chapter, the boundaries of which include all or a portion of any incorporated city or all or a portion of a district for water created by special law.

3. In every county whose population is less than 100,000, the board of county commissioners may be ~~[,]~~ ex officio ~~[,]~~ the board of trustees of ~~[each]~~ ***:***

(a) Each district organized or reorganized pursuant to this chapter and authorized to exercise the basic power of furnishing emergency medical services as provided in NRS 318.1185, which district may overlap the territory of any district authorized to exercise any one or more other basic powers designated in this chapter.

(b) Each district organized pursuant to this chapter on or after July 1, 2007, and authorized to exercise the basic power of furnishing streets and alleys as provided in NRS 318.120, which district may overlap the territory of any district authorized to exercise any one or more other basic powers designated in this chapter.

4. ***The board of county commissioners of any county may be, at its option, ex officio the board of trustees of any district organized on or after July 1, 2007, and authorized to exercise one or more of the basic powers designated in this chapter.***

5. A board of county commissioners may exercise the options provided in subsections 1 ~~[, 2 and 3]~~ ***to 4, inclusive,*** by providing in the ordinance creating the district or in an ordinance thereafter adopted at any time that the board is ~~[,]~~ ex officio ~~[,]~~ the board of trustees of the district. The board of county commissioners shall, in the former case, be the board of trustees of the district when the ordinance creating the district becomes effective, or in the latter case, become the board of the district 30 days after the effective date of the ordinance adopted after the creation of the district. In the latter case within the 30-day period the county clerk shall promptly cause a copy of the ordinance to be:

(a) Filed in his office;

(b) Transmitted to the secretary of the district; and

(c) Filed in the Office of the Secretary of State without the payment of any fee and otherwise in the same manner as articles of incorporation are required to be filed under chapter 78 of NRS.

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

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate Amendment No. 805 to Assembly Bill No. 373.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

The following Senate amendment was read:

Amendment No. 969.

AN ACT relating to general improvement districts; revising the provisions governing the circumstances under which a board of county commissioners may serve ex officio as the board of trustees of a general improvement district; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill authorizes the board of county commissioners ~~[in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties)]~~ to serve ex officio as the board of trustees of a general improvement district which is organized on or after July 1, 2007, and **is**

authorized to ~~[furnish streets and alleys.]~~ **exercise any of the basic powers that a district may exercise under existing law.** This bill also provides that **, in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties) and which is only authorized to furnish streets and alleys,** the territory of such a district may overlap the territory of another general improvement district. ~~[This bill also authorizes the board of county commissioners in any county to serve ex officio as the board of trustees of a general improvement district which is organized on or after July 1, 2007, and is authorized to exercise any of the basic powers that a district may exercise under existing law.]~~ (NRS 318.0953)

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

Section 1. NRS 318.0953 is hereby amended to read as follows:

318.0953 1. In every county whose population is 400,000 or more, the board of county commissioners is, and in counties whose population is less than 400,000 the board of county commissioners may be ~~[,]~~ ex officio ~~[,]~~ the board of trustees of each district organized or reorganized pursuant to this chapter and authorized to exercise the basic power of furnishing facilities for sewerage as provided in NRS 318.140, without regard to whether the district is also authorized to furnish facilities for storm drainage, but excluding any district which is authorized, in addition to those basic powers, to exercise any one or more other basic powers designated in this chapter, except as ***otherwise*** provided in subsections 2 ~~[and 4.]~~ ***, 4 and 5.***

2. The board of county commissioners of any county may be, at its option, ex officio ~~[,]~~ the board of trustees of any district organized or reorganized pursuant to this chapter and authorized to exercise the basic power of furnishing facilities for water as provided in NRS 318.144, or ~~[,]~~ furnishing both facilities for water and facilities for sewerage as provided in NRS 318.144 and 318.140, respectively, without regard to whether the district is also authorized to furnish facilities for storm drainage, but excluding any district which:

(a) Is authorized, in addition to its basic powers, to exercise any one or more other basic powers designated in this chapter ~~[.]~~ ***, except as otherwise provided in subsection 4.***

(b) Is organized or reorganized pursuant to this chapter, the boundaries of which include all or a portion of any incorporated city or all or a portion of a district for water created by special law.

3. In every county whose population is less than 100,000, the board of county commissioners may be ~~[,]~~ ex officio ~~[,]~~ the board of trustees of each ~~[:~~ ~~*(a) Each]*~~ district organized or reorganized pursuant to this chapter and authorized to exercise the basic power of furnishing emergency medical services as provided in NRS 318.1185, which district may overlap the territory of any district authorized to exercise any one or more other basic powers designated in this chapter.

~~*[(b) Each district organized pursuant to this chapter on or after July 1, 2007, and authorized to exercise the basic power of furnishing streets and alleys as provided in NRS 318.120, which district may overlap the territory of any district authorized to exercise any one or more other basic powers designated in this chapter.]*~~

4. ***The board of county commissioners of any county may be, at its option, ex officio the board of trustees of any district organized on or after July 1, 2007, and authorized to exercise one or more of the basic powers designated in this chapter. In a county whose population is less than 100,000, a district for which the board of county commissioners is ex officio the board of trustees pursuant to this subsection and which is authorized only to exercise the basic power of furnishing streets and alleys as provided in NRS 318.120 may overlap the territory of any district authorized to exercise any one or more other basic powers designated in this chapter.***

5. A board of county commissioners may exercise the options provided in subsections 1 ~~[, 2 and 3]~~ ***to 4, inclusive,*** by providing in the ordinance creating the district or in an ordinance thereafter adopted at any time that the board is ~~[,]~~ ex officio ~~[,]~~ the board of trustees of the district. The board of county commissioners shall, in the former case, be the board of trustees of the district when the ordinance creating the district becomes effective, or in the latter case, become the board of the district 30 days after the effective date of the ordinance adopted after the creation of the district. In the latter case within the 30-day period the county clerk shall promptly cause a copy of the ordinance to be:

(a) Filed in his office;

(b) Transmitted to the secretary of the district; and

(c) Filed in the Office of the Secretary of State without the payment of any fee and otherwise in the same manner as articles of incorporation are required to be filed under chapter 78 of NRS.

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

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate Amendment No. 969 to Assembly Bill No. 373.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 439.

The following Senate amendment was read:

Amendment No. 807.

AN ACT relating to affordable housing; requiring **certain** cities and counties to adopt certain measures to implement a housing plan that is included in a master plan; **providing a procedure for reporting progress in maintaining and developing affordable housing, reviewing such reports and imposing penalties for lack of adequate progress;** amending the

definition of "affordable housing"; making various changes to the requirements for a master plan relating to affordable housing; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires ~~[planning commissions to adopt]~~ **the adoption of a** master ~~[plans]~~ **plan in a county whose population is 400,000 or more (currently Clark County)** and ~~[sets forth the requirements for master plans. In certain counties, master plans are required to]~~ **requires that the master plan** include **a** housing ~~[plans, which must include, in part,]~~ **plan. If a master plan is adopted in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County), the master plan is required to include a housing plan. Under existing law, such a housing plan is required to include** a plan for maintaining and developing affordable housing to meet the housing needs of the community. (NRS 278.150, 278.160)

Section ~~[1]~~ **1.3** of this bill requires the governing body of a city or county ~~[,]~~ **that is required to include a housing plan in its master plan,** in implementing a plan for maintaining and developing affordable housing to meet the housing needs of the community, to adopt at least ~~[three]~~ **6** of ~~[the following]~~ **12 specified** measures ~~[: (1) at the expense of the city or county, as applicable, subsidizing all or part of any impact fees and fees collected for the issuance of building permits; (2) selling land owned by the city or county to developers exclusively for the development of affordable housing at not more than 10 percent of its appraised value; (3) establishing a trust fund for affordable housing; or (4) establishing a process that expedites the approval of plans and specifications relating to maintaining and developing affordable housing. Section 1]~~ **relating to the maintenance and development of affordable housing in the jurisdiction. Sections 1.3 and 1.7** also: (1) ~~[requires]~~ **require such** cities and counties to report annually to the Housing Division of the Department of Business and Industry concerning how such measures assisted the city or county in maintaining and developing affordable housing; **(2) require the Interim Finance Committee to review those reports and, at the Committee's discretion, determine whether a city or county made adequate progress in maintaining and developing affordable housing during the reporting period;** and ~~[(2) authorizes]~~ **(3) authorize** the **Interim Finance Committee to recommend that the Housing** Division ~~[to]~~ impose a penalty against a city or county that does not make **such** adequate progress **.** ~~[in maintaining and developing affordable housing.]~~ Section 5 of this bill ~~[set]~~ **sets** forth the formula for determining the amount of any such penalty. **Pursuant to section 7 of this bill, the penalty provisions do not become effective until October 1, 2008, and therefore do not apply to the initial annual reports submitted to the Housing Division.**

~~[Existing]~~ **For purposes of the provisions governing land use planning that address affordable housing, existing** law defines "affordable housing"

to mean housing that is affordable for a family with a total gross income less than 110 percent of the median gross income for the county concerned, based upon estimates by the United States Department of Housing and Urban Development of the most current median gross family income for the county.

(NRS 278.0105) Section 2 of this bill ~~[amends]~~ **decreases the total gross income of a family that is used for determining whether housing is affordable in** the definition of "affordable housing" ~~[to mean housing that is affordable for a family with a total gross income that does not exceed 80 percent of the median gross income for the county concerned, based upon estimates by the United States Department of Housing and Urban Development of the most current median gross family income for the county.]~~ **from a total gross income that is less than 110 percent of the median gross income for the relevant county to a total gross income that does not exceed 80 percent of that median gross income, which thereby limits the scope of the provisions governing land use planning that address affordable housing.**

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

Section 1. **Chapter 278 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.7 of this act.**

~~[Section 1.]~~ ***Sec. 1.3.*** ~~[Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:]~~

1. ~~[In]~~ If the governing body of a city or county is required to include a housing plan in its master plan pursuant to NRS 278.150, the governing body, in carrying out ~~[a]~~ the plan for maintaining and developing affordable housing to meet the housing needs of the community, which ~~[plan]~~ is required to be included in ~~[a master]~~ the housing plan pursuant to subparagraph (8) of paragraph (e) of subsection 1 of NRS 278.160, ~~[the governing body of a city or county must]~~ shall adopt at least ~~[three]~~ six of the following measures:

(a) At the expense of the city or county, as applicable, subsidizing in whole or in part impact fees and fees for the issuance of building permits collected pursuant to NRS 278.580.

(b) Selling land owned by the city or county, as applicable, to developers exclusively for the development of affordable housing at not more than 10 percent of the appraised value of the land ~~[.]~~ , and requiring that any such savings, subsidy or reduction in price be passed on to the purchaser of housing in such a development. Nothing in this paragraph authorizes a city or county to obtain land pursuant to the power of eminent domain for the purposes set forth in this paragraph.

(c) Donating land owned by the city or county to a nonprofit organization to be used for affordable housing.

(d) Leasing land by the city or county to be used for affordable housing.

(e) Requesting to purchase land owned by the Federal Government at a discounted price for the creation of affordable housing pursuant to the provisions of section 7(b) of the Southern Nevada Public Land Management Act of 1998, Public Law 105-263.

(f) Establishing a trust fund for affordable housing that must be used for the acquisition, construction or rehabilitation of affordable housing.

~~[(d)]~~ ***(g)*** Establishing a process that expedites the approval of plans and specifications relating to maintaining and developing affordable housing.

(h) Providing money, support or density bonuses for affordable housing developments that are financed, wholly or in part, with low-income housing tax credits, private activity bonds or money from a governmental entity for affordable housing, including, without limitation, money received pursuant to 12 U.S.C § 1701q and 42 U.S.C. § 8013.

(i) Providing financial incentives or density bonuses to promote appropriate transit-oriented housing developments that would include an affordable housing component.

(j) Offering density bonuses or other incentives to encourage the development of affordable housing.

(k) Providing direct financial assistance to qualified applicants for the purchase or rental of affordable housing.

(l) Providing money for supportive services necessary to enable persons with supportive housing needs to reside in affordable housing in accordance with a need for supportive housing identified in the 5-year consolidated plan adopted by the United States Department of Housing and Urban Development for the city or county pursuant to 42 U.S.C. § 12705 and described in 24 C.F.R. Part 91.

2. On or before January 15 of each year, the governing body shall submit to the Housing Division of the Department of Business and Industry a report, in the form prescribed by the Division, of how the measures adopted pursuant to subsection 1 assisted the city or county in maintaining and developing affordable housing to meet the needs of the community for the preceding year. The report must include an analysis of the need for affordable housing within the city or county that exists at the end of the reporting period.

~~*[3. On or before February 15 of each year, the Division shall determine, based on the report submitted pursuant to subsection 2, whether the city or county made adequate progress in maintaining and developing affordable housing to meet the housing needs of the community. The Division shall establish criteria for determining whether a city or county makes adequate progress in maintaining and developing affordable housing to meet the housing needs of the community.*~~

~~*4. If the Division determines pursuant to subsection 3 that a city or county has not made adequate progress in maintaining and developing affordable housing to meet the housing needs of the community :*~~

~~*(a) On or before February 21, the Division shall notify the governing body of the city or county and the Executive Director of the Department of Taxation that the Division is imposing a penalty against the city or county; and*~~

~~*(b) The Executive Director shall determine the amount of the penalty pursuant to section 5 of this act.*~~

~~*5. The governing body of a city or county against whom a penalty is imposed pursuant to subsection 4 may apply to the Division for an amount from the Account for Low-Income Housing created pursuant to NRS 319.500 that does not exceed the amount of the penalty determined by the Executive Director pursuant to section 5 of this act. Any money that the governing body receives pursuant to this subsection must be used exclusively for the purpose of maintaining and developing affordable housing in the community.*~~]

Sec. 1.7. 1. The Interim Finance Committee shall review the compilation of reports submitted by the Housing Division of the Department of Business and Industry pursuant to section 1.3 of this act and may determine, based on the pertinent report in the compilation, whether a city or county made adequate progress during the reporting period in maintaining and developing affordable housing to meet the housing needs of the community.

2. If the Interim Finance Committee determines pursuant to subsection 1 that a city or county has not made adequate progress in maintaining and developing affordable housing to meet the housing needs of the community, the Interim Finance Committee may recommend that the Housing Division impose a penalty against the city or county in an amount determined pursuant to section 5 of this act. If the Interim Finance Committee makes such a recommendation, the Housing Division shall the notify the governing body of the city or county and the Executive Director of the Department of Taxation that the Housing Division will be imposing a penalty against the city or county.

3. The governing body of a city or county against whom a penalty is imposed pursuant to subsection 2 may apply to the Housing Division for an amount from the Account for Low-Income Housing created pursuant to NRS 319.500 that does not exceed the amount of the penalty determined by the Executive Director of the Department of Taxation pursuant to section 5 of this act. Any money that the governing body receives pursuant to this subsection must be used exclusively for the purpose of maintaining and developing affordable housing in the community and must be reverted to the Account if it is not used for this purpose within 4 years after receipt.

Sec. 2. NRS 278.0105 is hereby amended to read as follows:

278.0105 "Affordable housing" means housing affordable for a family with a total gross income ~~[less than 110]~~ ***that does not exceed 80*** percent of the median gross income for the county concerned based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for the county.

Sec. 3. NRS 278.160 is hereby amended to read as follows:

278.160 1. Except as otherwise provided in subsection 4 of NRS 278.150 and subsection 3 of NRS 278.170, the master plan, with the accompanying charts, drawings, diagrams, schedules and reports, may include such of the following subject matter or portions thereof as are appropriate to the city, county or region, and as may be made the basis for the physical development thereof:

(a) Community design. Standards and principles governing the subdivision of land and suggestive patterns for community design and development.

(b) Conservation plan. For the conservation, development and utilization of natural resources, including, without limitation, water and its hydraulic force, underground water, water supply, solar or wind energy, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The plan must also cover the reclamation of land and waters, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan, prevention, control and correction of the erosion of soils through proper clearing, grading and landscaping, beaches and shores, and protection of watersheds. The plan must also indicate the maximum tolerable level of air pollution.

(c) Economic plan. Showing recommended schedules for the allocation and expenditure of public money in order to provide for the economical and timely execution of the various components of the plan.

(d) Historical properties preservation plan. An inventory of significant historical, archaeological and architectural properties as defined by a city, county or region, and a statement of methods to encourage the preservation of those properties.

(e) Housing plan. The housing plan must include, without limitation:

(1) An inventory of housing conditions, needs and plans and procedures for improving housing standards and for providing adequate housing ~~[.]~~ ***to individuals and families in the community, regardless of income level.***

(2) An inventory of ***existing*** affordable housing in the community ~~[.]~~ ***, including, without limitation, housing that is available to rent or own, housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the Federal Government or an agency of the Federal Government, and housing that is accessible to persons with disabilities.***

(3) An analysis of ***projected growth and*** the demographic characteristics of the community.

(4) A determination of the present and prospective need for affordable housing in the community.

(5) An analysis of any impediments to the development of affordable housing and the development of policies to mitigate those impediments.

(6) An analysis of the characteristics of the land that is ~~[the most appropriate for the construction of affordable housing.]~~ ***suitable for residential development. The analysis must include, without limitation:***

(I) A determination of whether the existing infrastructure is sufficient to sustain the current needs and projected growth of the community; and

(II) An inventory of available parcels that are suitable for residential development and any zoning, environmental and other land-use planning restrictions that affect such parcels.

(7) An analysis of the needs and appropriate methods for the construction of affordable housing or the conversion or rehabilitation of existing housing to affordable housing.

(8) A plan for maintaining and developing affordable housing to meet the housing needs of the community ~~[.]~~ ***for a period of at least 5 years.***

(f) Land use plan. An inventory and classification of types of natural land and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land. The land use plan:

(1) Must address, if applicable, mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts.

(2) May include a provision concerning the acquisition and use of land that is under federal management within the city, county or region, including, without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.

(g) Population plan. An estimate of the total population which the natural resources of the city, county or region will support on a continuing basis without unreasonable impairment.

(h) Public buildings. Showing locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.

(i) Public services and facilities. Showing general plans for sewage, drainage and utilities, and rights-of-way, easements and facilities therefor, including, without limitation, any utility projects required to be reported pursuant to NRS 278.145.

(j) Recreation plan. Showing a comprehensive system of recreation areas, including, without limitation, natural reservations, parks, parkways, trails, reserved riverbank strips, beaches, playgrounds and other recreation areas, including, when practicable, the locations and proposed development thereof.

(k) Rural neighborhoods preservation plan. In any county whose population is 400,000 or more, showing general plans to preserve the character and density of rural neighborhoods.

(l) Safety plan. In any county whose population is 400,000 or more, identifying potential types of natural and man-made hazards, including, without limitation, hazards from floods, landslides or fires, or resulting from the manufacture, storage, transfer or use of bulk quantities of hazardous

materials. The plan may set forth policies for avoiding or minimizing the risks from those hazards.

(m) School facilities plan. Showing the general locations of current and future school facilities based upon information furnished by the appropriate local school district.

(n) Seismic safety plan. Consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking or to ground failures.

(o) Solid waste disposal plan. Showing general plans for the disposal of solid waste.

(p) Streets and highways plan. Showing the general locations and widths of a comprehensive system of major traffic thoroughfares and other traffic ways and of streets and the recommended treatment thereof, building line setbacks, and a system of naming or numbering streets and numbering houses, with recommendations concerning proposed changes.

(q) Transit plan. Showing a proposed multimodal system of transit lines, including mass transit, streetcar, motorcoach and trolley coach lines, paths for bicycles and pedestrians, satellite parking and related facilities.

(r) Transportation plan. Showing a comprehensive transportation system, including, without limitation, locations of rights-of-way, terminals, viaducts and grade separations. The plan may also include port, harbor, aviation and related facilities.

2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other subjects as may in its judgment relate to the physical development of the city, county or region, and nothing contained in NRS 278.010 to 278.630, inclusive, ***and section ~~[1]~~ 1.3 of this act*** prohibits the preparation and adoption of any such subject as a part of the master plan.

Sec. 3.5. **NRS 218.6827 is hereby amended to read as follows:**

218.6827 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.

2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, and 353.335, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650. In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chairman of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.

Sec. 4. NRS 319.510 is hereby amended to read as follows:

319.510 1. Money deposited in the Account for Low-Income Housing must be used:

(a) For the acquisition, construction or rehabilitation of housing for eligible families by public or private nonprofit charitable organizations, housing authorities or local governments through loans, grants or subsidies;

(b) To provide technical and financial assistance to public or private nonprofit charitable organizations, housing authorities and local governments for the acquisition, construction or rehabilitation of housing for eligible families;

(c) To provide funding for projects of public or private nonprofit charitable organizations, housing authorities or local governments that provide assistance to or guarantee the payment of rent or deposits as security for rent for eligible families, including homeless persons;

(d) To reimburse the Division for the costs of administering the Account; and

(e) In any other manner consistent with this section to assist eligible families in obtaining or keeping housing, including use as the State's contribution to facilitate the receipt of related federal money.

2. Except as otherwise provided in this subsection, the Division may expend money from the Account as reimbursement for the necessary costs of efficiently administering the Account and any money received pursuant to 42 U.S.C. §§ 12701 et seq. In no case may the Division expend more than $40,000 per year or an amount equal to 6 percent of any money made available to the State pursuant to 42 U.S.C. §§ 12701 et seq., whichever is greater. Of the remaining money allocated from the Account:

(a) Except as otherwise provided in subsection 3, 15 percent must be distributed to the Division of Welfare and Supportive Services of the Department of Health and Human Services for use in its program developed pursuant to 45 C.F.R. § 233.120 to provide emergency assistance to needy families with children, subject to the following:

(1) The Division of Welfare and Supportive Services shall adopt regulations governing the use of the money that are consistent with the provisions of this section.

(2) The money must be used solely for activities relating to low-income housing that are consistent with the provisions of this section.

(3) The money must be made available to families that have children and whose income is at or below the federally designated level signifying poverty.

(4) All money provided by the Federal Government to match the money distributed to the Division of Welfare and Supportive Services pursuant to this section must be expended for activities consistent with the provisions of this section.

(b) Eighty-five percent must be distributed to public or private nonprofit charitable organizations, housing authorities and local governments for the

acquisition, construction and rehabilitation of housing for eligible families, subject to the following:

(1) Priority must be given to those projects that qualify for the federal tax credit relating to low-income housing.

(2) Priority must be given to those projects that anticipate receiving federal money to match the state money distributed to them.

(3) Priority must be given to those projects that have the commitment of a local government to provide assistance to them.

(4) ~~[All]~~ ***Priority must be given to a local government that applies for and receives money pursuant to section ~~[1]~~ 1.7 of this act.***

(5) Except as otherwise provided in this subparagraph, all money must be used to benefit families whose income does not exceed 60 percent of the median income for families residing in the same county, as defined by the United States Department of Housing and Urban Development.

~~[(5)]~~ ***If a local government applies for and receives money pursuant to section ~~[1]~~ 1.7 of this act, the money must be used to benefit families whose income does not exceed 80 percent of the median income for families residing in the same county, as defined by the United States Department of Housing and Urban Development.***

(6) Not less than 15 percent of the units acquired, constructed or rehabilitated must be affordable to persons whose income is at or below the federally designated level signifying poverty. For the purposes of this subparagraph, a unit is affordable if a family does not have to pay more than 30 percent of its gross income for housing costs, including both utility and mortgage or rental costs.

~~[(6)]~~ ***(7)*** To be eligible to receive money pursuant to this paragraph, a project must be sponsored by a local government.

3. The Division may, pursuant to contract and in lieu of distributing money to the Division of Welfare and Supportive Services pursuant to paragraph (a) of subsection 2, distribute any amount of that money to private or public nonprofit entities for use consistent with the provisions of this section.

Sec. 5. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If , upon the recommendation of the Interim Finance Committee pursuant to section 1.7 of this act, the Housing Division of the Department of Business and Industry imposes a penalty against a city or county , ~~[pursuant to section 1 of this act,]~~ the Executive Director shall : ~~[, on or before March 1 of the year in which the penalty is imposed:]~~

(a) Determine the amount of the penalty by determining the total amount of the real property transfer tax described in paragraph (a) of subsection 1 of NRS 375.070 which is attributable to the city or county for the preceding fiscal year; and

(b) Report the amount determined pursuant to paragraph (a) to the State Treasurer and the city or county.

2. For the fiscal year beginning on July 1 of the year in which the penalty is imposed, the State Treasurer shall:

(a) Subtract one-twelfth of the amount of the penalty that is determined by the Executive Director pursuant to subsection 1 from the amount remitted monthly to the city or county pursuant to NRS 360.690; or

(b) If the city or county has entered into a cooperative agreement pursuant to NRS 360.730, collect, on a monthly basis, one-twelfth of the amount of the penalty that is determined by the Executive Director pursuant to subsection 1 from the city or county,

➥ and deposit that amount into the Account for Low-Income Housing established pursuant to NRS 319.500.

Sec. 6. NRS 704.848 is hereby amended to read as follows:

704.848 1. "Other permitting entity" means any state or local entity:

(a) That is responsible for the enforcement of environmental laws and whose approval is required for the construction of a utility facility, including, without limitation, the State Environmental Commission, the State Department of Conservation and Natural Resources and a local air pollution control board; or

(b) Whose approval is required for granting any variance, special use permit, conditional use permit or other special exception under NRS 278.010 to 278.319, inclusive, ***and section ~~[1]~~ 1.3 of this act,*** or 278.640 to 278.675, inclusive, or any regulation or ordinance adopted pursuant thereto, that is required for the construction of a utility facility.

2. The term does not include the Commission or the State Engineer.

Sec. 7. **1. This section and sections 1, 1.3, 2, 3 and 6 of this act become effective on October 1, 2007.**

2. Sections 1.7, 3.5, 4 and 5 of this act become effective on October 1, 2008.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate Amendment No. 807 to Assembly Bill No. 439.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

The following Senate amendment was read:

Amendment No. 1004.

AN ACT relating to affordable housing; requiring certain cities and counties to adopt certain measures to implement a housing plan that is included in a master plan ~~[; providing a procedure for reporting]~~ **and to report their** progress in maintaining and developing affordable housing **;** ~~[, reviewing such reports and imposing penalties for lack of adequate progress;]~~ amending the definition of "affordable housing"; making various changes to the requirements for a master plan relating to affordable housing; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the adoption of a master plan in a county whose population is 400,000 or more (currently Clark County) and requires that the

master plan include a housing plan. If a master plan is adopted in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County), the master plan is required to include a housing plan. Under existing law, such a housing plan is required to include a plan for maintaining and developing affordable housing to meet the housing needs of the community. (NRS 278.150, 278.160)

Section 1.3 of this bill requires the governing body of a city or county that is required to include a housing plan in its master plan, in implementing a plan for maintaining and developing affordable housing to meet the housing needs of the community, to adopt at least 6 of 12 specified measures relating to the maintenance and development of affordable housing in the jurisdiction. ~~[Sections]~~ **Section** 1.3 ~~[and 1.7]~~ also ~~[: (1) require]~~ **requires** such cities and counties to report annually to the Housing Division of the Department of Business and Industry concerning how such measures assisted the city or county in maintaining and developing affordable housing **.** ~~[; (2) require the Interim Finance Committee to review those reports and, at the Committee's discretion, determine whether a city or county made adequate progress in maintaining and developing affordable housing during the reporting period; and (3) authorize the Interim Finance Committee to recommend that the Housing Division impose a penalty against a city or county that does not make such adequate progress. Section 5 of this bill sets forth the formula for determining the amount of any such penalty. Pursuant to section 7 of this bill, the penalty provisions do not become effective until October 1, 2008, and therefore do not apply to the initial annual reports submitted to the Housing Division.]~~ **The Housing Division is required to submit a compilation of the reports to the Legislature, or to the Legislative Commission if the Legislature is not in session.**

For purposes of the provisions governing land use planning that address affordable housing, existing law defines "affordable housing" to mean housing that is affordable for a family with a total gross income less than 110 percent of the median gross income for the county concerned, based upon estimates by the United States Department of Housing and Urban Development of the most current median gross family income for the county. (NRS 278.0105) Section 2 of this bill decreases the total gross income of a family that is used for determining whether housing is affordable in the definition of "affordable housing" from a total gross income that is less than 110 percent of the median gross income for the relevant county to a total gross income that does not exceed 80 percent of that median gross income, which thereby limits the scope of the provisions governing land use planning that address affordable housing.

Existing law sets forth the subject matters of a master plan. (NRS 278.160) Section 3 of this bill revises the contents of the housing plan portion of a master plan.

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

Section 1. Chapter 278 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. If the governing body of a city or county is required to include a housing plan in its master plan pursuant to NRS 278.150, the governing body, in carrying out the plan for maintaining and developing affordable housing to meet the housing needs of the community, which is required to be included in the housing plan pursuant to subparagraph (8) of paragraph (e) of subsection 1 of NRS 278.160, shall adopt at least six of the following measures:***

(a) At the expense of the city or county, as applicable, subsidizing in whole or in part impact fees and fees for the issuance of building permits collected pursuant to NRS 278.580.

(b) Selling land owned by the city or county, as applicable, to developers exclusively for the development of affordable housing at not more than 10 percent of the appraised value of the land, and requiring that any such savings, subsidy or reduction in price be passed on to the purchaser of housing in such a development. Nothing in this paragraph authorizes a city or county to obtain land pursuant to the power of eminent domain for the purposes set forth in this paragraph.

(c) Donating land owned by the city or county to a nonprofit organization to be used for affordable housing.

(d) Leasing land by the city or county to be used for affordable housing.

(e) Requesting to purchase land owned by the Federal Government at a discounted price for the creation of affordable housing pursuant to the provisions of section 7(b) of the Southern Nevada Public Land Management Act of 1998, Public Law 105-263.

(f) Establishing a trust fund for affordable housing that must be used for the acquisition, construction or rehabilitation of affordable housing.

(g) Establishing a process that expedites the approval of plans and specifications relating to maintaining and developing affordable housing.

(h) Providing money, support or density bonuses for affordable housing developments that are financed, wholly or in part, with low-income housing tax credits, private activity bonds or money from a governmental entity for affordable housing, including, without limitation, money received pursuant to 12 U.S.C § 1701q and 42 U.S.C. § 8013.

(i) Providing financial incentives or density bonuses to promote appropriate transit-oriented housing developments that would include an affordable housing component.

(j) Offering density bonuses or other incentives to encourage the development of affordable housing.

(k) Providing direct financial assistance to qualified applicants for the purchase or rental of affordable housing.

(l) Providing money for supportive services necessary to enable persons with supportive housing needs to reside in affordable housing in accordance with a need for supportive housing identified in the 5-year consolidated plan adopted by the United States Department of Housing and Urban Development for the city or county pursuant to 42 U.S.C. § 12705 and described in 24 C.F.R. Part 91.

2. On or before January 15 of each year, the governing body shall submit to the Housing Division of the Department of Business and Industry a report, in the form prescribed by the Division, of how the measures adopted pursuant to subsection 1 assisted the city or county in maintaining and developing affordable housing to meet the needs of the community for the preceding year. The report must include an analysis of the need for affordable housing within the city or county that exists at the end of the reporting period.

3. On or before February 15 of each year, the Housing Division shall compile the reports submitted pursuant to subsection 2 and transmit the compilation to the ~~[Interim Finance Committee.]~~ Legislature, or the Legislative Commission if the Legislature is not in regular session.

Sec. 1.7. ~~*[1. The Interim Finance Committee shall review the compilation of reports submitted by the Housing Division of the Department of Business and Industry pursuant to section 1.3 of this act and may determine, based on the pertinent report in the compilation, whether a city or county made adequate progress during the reporting period in maintaining and developing affordable housing to meet the housing needs of the community.*~~

~~*2. If the Interim Finance Committee determines pursuant to subsection 1 that a city or county has not made adequate progress in maintaining and developing affordable housing to meet the housing needs of the community, the Interim Finance Committee may recommend that the Housing Division impose a penalty against the city or county in an amount determined pursuant to section 5 of this act. If the Interim Finance Committee makes such a recommendation, the Housing Division shall notify the governing body of the city or county and the Executive Director of the Department of Taxation that the Housing Division will be imposing a penalty against the city or county.*~~

~~*3. The governing body of a city or county against whom a penalty is imposed pursuant to subsection 2 may apply to the Housing Division for an amount from the Account for Low-Income Housing created pursuant to NRS 319.500 that does not exceed the amount of the penalty determined by the Executive Director of the Department of Taxation pursuant to section 5 of this act. Any money that the governing body receives pursuant to this subsection must be used exclusively for the purpose of maintaining and developing affordable housing in the community and must be reverted to the Account if it is not used for this purpose within 4 years after receipt.]*~~

(Deleted by amendment.)

Sec. 2. NRS 278.0105 is hereby amended to read as follows:

278.0105 "Affordable housing" means housing affordable for a family with a total gross income ~~[less than 110]~~ ***that does not exceed 80*** percent of the median gross income for the county concerned based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for the county.

Sec. 3. NRS 278.160 is hereby amended to read as follows:

278.160 1. Except as otherwise provided in subsection 4 of NRS 278.150 and subsection 3 of NRS 278.170, the master plan, with the accompanying charts, drawings, diagrams, schedules and reports, may include such of the following subject matter or portions thereof as are appropriate to the city, county or region, and as may be made the basis for the physical development thereof:

(a) Community design. Standards and principles governing the subdivision of land and suggestive patterns for community design and development.

(b) Conservation plan. For the conservation, development and utilization of natural resources, including, without limitation, water and its hydraulic force, underground water, water supply, solar or wind energy, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The plan must also cover the reclamation of land and waters, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan, prevention, control and correction of the erosion of soils through proper clearing, grading and landscaping, beaches and shores, and protection of watersheds. The plan must also indicate the maximum tolerable level of air pollution.

(c) Economic plan. Showing recommended schedules for the allocation and expenditure of public money in order to provide for the economical and timely execution of the various components of the plan.

(d) Historical properties preservation plan. An inventory of significant historical, archaeological and architectural properties as defined by a city, county or region, and a statement of methods to encourage the preservation of those properties.

(e) Housing plan. The housing plan must include, without limitation:

(1) An inventory of housing conditions, needs and plans and procedures for improving housing standards and for providing adequate housing ~~[.]~~ ***to individuals and families in the community, regardless of income level.***

(2) An inventory of ***existing*** affordable housing in the community ~~[.]~~ ***, including, without limitation, housing that is available to rent or own, housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the Federal Government or an agency of the Federal Government, and housing that is accessible to persons with disabilities.***

(3) An analysis of ***projected growth and*** the demographic characteristics of the community.

(4) A determination of the present and prospective need for affordable housing in the community.

(5) An analysis of any impediments to the development of affordable housing and the development of policies to mitigate those impediments.

(6) An analysis of the characteristics of the land that is ~~[the most appropriate for the construction of affordable housing.]~~ ***suitable for residential development. The analysis must include, without limitation:***

(I) A determination of whether the existing infrastructure is sufficient to sustain the current needs and projected growth of the community; and

(II) An inventory of available parcels that are suitable for residential development and any zoning, environmental and other land-use planning restrictions that affect such parcels.

(7) An analysis of the needs and appropriate methods for the construction of affordable housing or the conversion or rehabilitation of existing housing to affordable housing.

(8) A plan for maintaining and developing affordable housing to meet the housing needs of the community ~~[.]~~ ***for a period of at least 5 years.***

(f) Land use plan. An inventory and classification of types of natural land and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land. The land use plan:

(1) Must address, if applicable, mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts.

(2) May include a provision concerning the acquisition and use of land that is under federal management within the city, county or region, including, without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.

(g) Population plan. An estimate of the total population which the natural resources of the city, county or region will support on a continuing basis without unreasonable impairment.

(h) Public buildings. Showing locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.

(i) Public services and facilities. Showing general plans for sewage, drainage and utilities, and rights-of-way, easements and facilities therefor, including, without limitation, any utility projects required to be reported pursuant to NRS 278.145.

(j) Recreation plan. Showing a comprehensive system of recreation areas, including, without limitation, natural reservations, parks, parkways, trails, reserved riverbank strips, beaches, playgrounds and other recreation areas, including, when practicable, the locations and proposed development thereof.

(k) Rural neighborhoods preservation plan. In any county whose population is 400,000 or more, showing general plans to preserve the character and density of rural neighborhoods.

(l) Safety plan. In any county whose population is 400,000 or more, identifying potential types of natural and man-made hazards, including, without limitation, hazards from floods, landslides or fires, or resulting from the manufacture, storage, transfer or use of bulk quantities of hazardous materials. The plan may set forth policies for avoiding or minimizing the risks from those hazards.

(m) School facilities plan. Showing the general locations of current and future school facilities based upon information furnished by the appropriate local school district.

(n) Seismic safety plan. Consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking or to ground failures.

(o) Solid waste disposal plan. Showing general plans for the disposal of solid waste.

(p) Streets and highways plan. Showing the general locations and widths of a comprehensive system of major traffic thoroughfares and other traffic ways and of streets and the recommended treatment thereof, building line setbacks, and a system of naming or numbering streets and numbering houses, with recommendations concerning proposed changes.

(q) Transit plan. Showing a proposed multimodal system of transit lines, including mass transit, streetcar, motorcoach and trolley coach lines, paths for bicycles and pedestrians, satellite parking and related facilities.

(r) Transportation plan. Showing a comprehensive transportation system, including, without limitation, locations of rights-of-way, terminals, viaducts and grade separations. The plan may also include port, harbor, aviation and related facilities.

2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other subjects as may in its judgment relate to the physical development of the city, county or region, and nothing contained in NRS 278.010 to 278.630, inclusive, ***and section 1.3 of this act*** prohibits the preparation and adoption of any such subject as a part of the master plan.

Sec. 3.5. ~~[NRS 218.6827 is hereby amended to read as follows:~~

~~218.6827 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.~~

~~2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, and 353.335, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650.~~

~~In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chairman of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.]~~ **(Deleted by amendment.)**

Sec. 4. ~~[NRS 319.510 is hereby amended to read as follows:~~

~~319.510 1. Money deposited in the Account for Low Income Housing must be used:~~

~~(a) For the acquisition, construction or rehabilitation of housing for eligible families by public or private nonprofit charitable organizations, housing authorities or local governments through loans, grants or subsidies;~~

~~(b) To provide technical and financial assistance to public or private nonprofit charitable organizations, housing authorities and local governments for the acquisition, construction or rehabilitation of housing for eligible families;~~

~~(c) To provide funding for projects of public or private nonprofit charitable organizations, housing authorities or local governments that provide assistance to or guarantee the payment of rent or deposits as security for rent for eligible families, including homeless persons;~~

~~(d) To reimburse the Division for the costs of administering the Account; and~~

~~(e) In any other manner consistent with this section to assist eligible families in obtaining or keeping housing, including use as the State's contribution to facilitate the receipt of related federal money.~~

~~2. Except as otherwise provided in this subsection, the Division may expend money from the Account as reimbursement for the necessary costs of efficiently administering the Account and any money received pursuant to 42 U.S.C. §§ 12701 et seq. In no case may the Division expend more than $40,000 per year or an amount equal to 6 percent of any money made available to the State pursuant to 42 U.S.C. §§ 12701 et seq., whichever is greater. Of the remaining money allocated from the Account:~~

~~(a) Except as otherwise provided in subsection 3, 15 percent must be distributed to the Division of Welfare and Supportive Services of the Department of Health and Human Services for use in its program developed pursuant to 45 C.F.R. § 233.120 to provide emergency assistance to needy families with children, subject to the following:~~

~~(1) The Division of Welfare and Supportive Services shall adopt regulations governing the use of the money that are consistent with the provisions of this section.~~

~~(2) The money must be used solely for activities relating to low income housing that are consistent with the provisions of this section.~~

~~(3) The money must be made available to families that have children and whose income is at or below the federally designated level signifying poverty.~~

~~(4) All money provided by the Federal Government to match the money distributed to the Division of Welfare and Supportive Services pursuant to this section must be expended for activities consistent with the provisions of this section.~~

~~(b) Eighty-five percent must be distributed to public or private nonprofit charitable organizations, housing authorities and local governments for the acquisition, construction and rehabilitation of housing for eligible families, subject to the following:~~

~~(1) Priority must be given to those projects that qualify for the federal tax credit relating to low-income housing.~~

~~(2) Priority must be given to those projects that anticipate receiving federal money to match the state money distributed to them.~~

~~(3) Priority must be given to those projects that have the commitment of a local government to provide assistance to them.~~

~~(4)~~ [All] ~~*Priority must be given to a local government that applies for and receives money pursuant to section 1.7 of this act.*~~

~~*(5) Except as otherwise provided in this subparagraph, all* money must be used to benefit families whose income does not exceed 60 percent of the median income for families residing in the same county, as defined by the United States Department of Housing and Urban Development.~~

~~[(5)]~~ ~~*If a local government applies for and receives money pursuant to section 1.7 of this act, the money must be used to benefit families whose income does not exceed 80 percent of the median income for families residing in the same county, as defined by the United States Department of Housing and Urban Development.*~~

~~*(6)* Not less than 15 percent of the units acquired, constructed or rehabilitated must be affordable to persons whose income is at or below the federally designated level signifying poverty. For the purposes of this subparagraph, a unit is affordable if a family does not have to pay more than 30 percent of its gross income for housing costs, including both utility and mortgage or rental costs.~~

~~[(6)]~~ ~~*(7)* To be eligible to receive money pursuant to this paragraph, a project must be sponsored by a local government.~~

~~3. The Division may, pursuant to contract and in lieu of distributing money to the Division of Welfare and Supportive Services pursuant to paragraph (a) of subsection 2, distribute any amount of that money to private or public nonprofit entities for use consistent with the provisions of this section.]~~ **(Deleted by amendment.)**

Sec. 5. ~~[Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. If, upon the recommendation of the Interim Finance Committee pursuant to section 1.7 of this act, the Housing Division of the Department of Business and Industry imposes a penalty against a city or county, the Executive Director shall:*~~

~~*(a) Determine the amount of the penalty by determining the total amount of the real property transfer tax described in paragraph (a) of subsection 1 of NRS 375.070 which is attributable to the city or county for the preceding fiscal year; and*~~

~~*(b) Report the amount determined pursuant to paragraph (a) to the State Treasurer and the city or county.*~~

~~*2. For the fiscal year beginning on July 1 of the year in which the penalty is imposed, the State Treasurer shall:*~~

~~*(a) Subtract one-twelfth of the amount of the penalty that is determined by the Executive Director pursuant to subsection 1 from the amount remitted monthly to the city or county pursuant to NRS 360.690; or*~~

~~*(b) If the city or county has entered into a cooperative agreement pursuant to NRS 360.730, collect, on a monthly basis, one twelfth of the amount of the penalty that is determined by the Executive Director pursuant to subsection 1 from the city or county,*~~

~~*and deposit that amount into the Account for Low Income Housing established pursuant to NRS 319.500.]*~~ **(Deleted by amendment.)**

Sec. 6. ~~[NRS 704.848 is hereby amended to read as follows:~~

~~704.848 1. "Other permitting entity" means any state or local entity:~~

~~(a) That is responsible for the enforcement of environmental laws and whose approval is required for the construction of a utility facility, including, without limitation, the State Environmental Commission, the State Department of Conservation and Natural Resources and a local air pollution control board; or~~

~~(b) Whose approval is required for granting any variance, special use permit, conditional use permit or other special exception under NRS 278.010 to 278.319, inclusive, *and section 1.3 of this act*, or 278.640 to 278.675, inclusive, or any regulation or ordinance adopted pursuant thereto, that is required for the construction of a utility facility.~~

~~2. The term does not include the Commission or the State Engineer.]~~ **(Deleted by amendment.)**

Sec. 7. ~~[1. This section and sections 1, 1.3, 2, 3 and 6 of this act become effective on October 1, 2007.~~

~~2. Sections 1.7, 3.5, 4 and 5 of this act become effective on October 1, 2008.]~~ **(Deleted by amendment.)**

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate Amendment No. 1004 to Assembly Bill No. 439.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 296.

The following Senate amendment was read:

Amendment No. 1019.

SUMMARY— ~~[Expresses the sense of the Legislature]~~ **Enacts provisions** concerning the temporary conversion of certain water rights. (BDR 48-978)

AN ACT relating to water; expressing the sense of the Legislature as to the policy of this State concerning the temporary conversion of certain water rights for certain ecological purposes; **setting forth the requirements for carrying out such a temporary conversion;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill **: (1)** provides that it is the policy of the State of Nevada to allow the temporary conversion of certain agricultural water rights for wildlife purposes or to improve the quality or flow of water ~~[.]~~ **; and (2) sets forth the requirements for carrying out such a temporary conversion.**

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

Section 1. Chapter 533 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Legislature hereby finds and declares that it is the policy of this State to allow the temporary conversion of agricultural water rights for wildlife purposes or to improve the quality or flow of water.

2. If a person or entity proposes to temporarily convert agricultural water rights for wildlife purposes or to improve the quality or flow of water, such temporary conversion:

(a) Must not be carried out unless the person or entity first applies for and receives from the State Engineer any necessary permits or approvals required pursuant to:

(1) The provisions of this chapter; and

(2) Any applicable decisions, orders, procedures and regulations of the State Engineer.

(b) Except as otherwise provided in this paragraph, must not exceed 3 years in duration. A temporary conversion of agricultural water rights for wildlife purposes or to improve the quality or flow of water may be extended in increments not to exceed 3 years in duration each, provided that the person or entity seeking the extension first applies for and receives from the State Engineer any necessary permits or approvals, as described in paragraph (a).

Sec. 2. (Deleted by amendment.)

Sec. 3. This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 296.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 514.

The following Senate amendment was read:

Amendment No. 883.

AN ACT relating to the City of Las Vegas; making various changes to the powers of the City Council; making various other changes to the Charter of the City of Las Vegas; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides that the City Council of the City of Las Vegas has the power to adopt necessary and proper ordinances for the development and provision of affordable housing ~~[.]~~ **, but prohibits the imposition or increase of a tax by the City Council for those purposes unless otherwise authorized by specific statute.**

~~[Section 2 of this bill authorizes the City Council to establish a salary commission with the authority to fix the salaries of the Mayor and City Councilmen, the members of which are to be appointed by the Majority Leader of the Senate and the Speaker of the Assembly.]~~

Section 3 of this bill provides that the City Council has the power to adopt necessary and proper ordinances for the development and provision of employment and training programs ~~[.]~~ **, but prohibits the imposition or increase of a tax by the City Council for those purposes unless otherwise authorized by specific statute.**

Section 4 of this bill provides for the appointment of Hearing Commissioners by the City Council to hear and decide certain misdemeanor actions.

~~[Section 5 of this bill extends the time that the City Council has to fill vacancies in the office of Mayor, Councilman or Municipal Judge from 30 to 60 days.]~~

Section 8 of this bill amends the time by which a proposed ordinance must be adopted or rejected by the City Council from 30 days to 60 days. **(Las Vegas City Charter § 2.110)**

Section 9 of this bill authorizes the City Council to adopt an alternative procedure for a person to appeal the denial, suspension or revocation of a work permit or **an** identification card. **(Las Vegas City Charter § 2.130)**

Section 11 of this bill authorizes the Director of Financial Management of the City to serve as the City Treasurer ~~[.]~~ **if appropriate internal accounting controls are maintained. (Las Vegas City Charter § 3.150)**

Section 12 of this bill removes the requirement that the Director of Public Services be a licensed professional engineer. **(Las Vegas City Charter § 3.190)**

Existing law provides that a Master Judge must be selected on the basis of seniority. (Las Vegas City Charter § 4.020) Section 13 of this bill provides that the Municipal Judges shall elect the Master Judge from among their own number to serve for a 2-year term. In the event of a tie vote, the tie is to be decided by the drawing of lots.

Section 14 of this bill provides that the City Council may determine that the System of Civil Service must be administered by a Board of Civil Service Trustees. **(Las Vegas City Charter § 10.010)**

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

Section 1. The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto a new section to be designated as section 2.145, immediately following section 2.140, to read as follows:

Sec. 2.145 Powers of City Council: Affordable Housing. ~~*[In]*~~

1. Except as otherwise provided in subsection 2 and in addition to any other powers authorized by specific statute, the City Council may exercise such powers and enact such ordinances, not in conflict with the laws of this State, as the City Council determines are necessary and proper for the development and provision of affordable housing.

2. The City Council shall not impose or increase a tax for the purposes set forth in subsection 1 unless the tax or increase is otherwise authorized by specific statute.

Sec. 2. ~~[The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto a new section to be designated as section 2.340, immediately following section 2.330, to read as follows:~~

~~*Sec. 2.340 Powers of City Council: Salaries of Mayor and Councilmen.*~~

~~*1. The City Council may by ordinance or resolution establish an independent salary commission to fix the salaries of the Mayor and the Councilmen. Such ordinance or resolution must include, without limitation, the terms of office of the members of the salary commission. If the City Council establishes a salary commission by ordinance or resolution, it shall provide written notice of that fact to:*~~

~~*(a) The Majority Leader of the Senate; and*~~

~~*(b) The Speaker of the Assembly.*~~

~~*2. If a salary commission is established pursuant to subsection 1, the Majority Leader of the Senate and the Speaker of the Assembly, within 60 days after receiving the written notice described in that subsection, shall jointly appoint to the salary commission a total of seven members, one of whom must be a member at large and six of whom must represent the different wards into which the City is divided. Each of the six members representing one of the wards into which the City is divided must be a person who:*~~

~~*(a) Resides within the ward which he represents;*~~

~~*(b) Is not a member of the household of the Councilman who represents that ward;*~~

~~*(c) Is not related by blood, adoption or marriage within the third degree of consanguinity or affinity to the Councilman who represents that ward; and*~~

~~*(d) Does not have a substantial and continuing business relationship with either the City or the Councilman who represents that ward.*~~

~~*3. A member must be appointed on the basis of his education, training, experience and demonstrated abilities. Of the total of the seven members appointed to the salary commission:*~~

~~*(a) One member must be affiliated with an organization representing the interests of businesses;*~~

~~*(b) One member must be affiliated with an organization representing the interests of taxpayers;*~~

~~*(c) One member must be affiliated with an organization representing the interests of the development community;*~~

~~*(d) One member must have expertise in human resource management;*~~

~~*(e) One member must have expertise in finance; and*~~

~~*(f) Two members must be representative of the general public.*~~

~~*4. Members of the salary commission:*~~

~~*(a) Serve without compensation; and*~~

~~*(b) May, upon written request, receive the per diem allowance and travel expenses provided for state officers and employees generally while engaged in the business of the salary commission.*~~

~~*5. The salary commission must meet at least once every 5 years.*~~

~~*6. The salary commission is entitled to such staff or employees of the City as is necessary to assist in the performance of the duties of the salary commission that are set forth in subsection 7.*~~

~~*7. In setting the salaries of the Mayor and Councilmen, the salary commission shall conduct at least one public hearing and consider the following:*~~

~~*(a) The amount of work performed by the Mayor or Councilmen in representing their constituents, based upon the population and geographical size of the area that the Mayor or Councilmen represent.*~~

~~*(b) The amount of time dedicated by the Mayor or Councilmen in representing their constituents.*~~

~~*(c) The projected population growth of the City.*~~

~~*(d) Existing compensation levels for comparable positions in other geographic locations.*~~

~~*(e) The current and projected financial conditions of the City.*~~

~~*(f) Any other condition or factor that the salary commission determines is relevant to fixing the salaries of the Mayor or the Councilmen.]*~~ **(Deleted by amendment.)**

Sec. 3. The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto a new section to be designated as section 3.300, immediately following section 3.290, to read as follows:

Sec. 3.300 Programs: Employment and Training. ~~*[In]*~~

1. Except as otherwise provided in subsection 2 and in addition to any other powers authorized by specific statute, the City Council may exercise

such powers and enact such ordinances, not in conflict with the laws of this State, as the City Council determines are necessary and proper for the development and provision of programs relating to employment and training.

2. The City Council shall not impose or increase a tax for the purposes set forth in subsection 1 unless the tax or increase is otherwise authorized by specific statute.

Sec. 4. The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto a new section to be designated as section 4.040, immediately following section 4.030, to read as follows:

Sec. 4.040 Hearing Commissioners.

1. The City Council may appoint one or more Hearing Commissioners to hear and decide:

(a) Any action for a misdemeanor constituting a violation of chapter 484 of NRS, except NRS 484.379; and

(b) Any action for a misdemeanor constituting a violation of the Las Vegas Municipal Code, except chapter 11.14 of that Code.

2. Each Hearing Commissioner must:

(a) Be a duly licensed member, in good standing, of the State Bar of Nevada;

(b) Be a resident of the State;

(c) Be a qualified elector in the City;

(d) Have been a bona fide resident of the City for not less than 1 year next preceding his appointment; and

(e) Not have ever been removed or retired from any judicial office by the Commission on Judicial Discipline.

3. In connection with any action of a type described in subsection 1, a Hearing Commissioner has all the powers and duties of a Municipal Judge and a magistrate pursuant to the laws of this State. To the extent possible and practicable, the proceedings in such actions must be subject to and governed by the provisions of the laws of this State, this Charter and city ordinances pertaining to Municipal Judges.

4. Hearing Commissioners shall receive such compensation as may be allowed by the City Council.

Sec. 5. Section 1.160 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 515, Statutes of Nevada 1997, at page 2451, is hereby amended to read as follows:

Sec. 1.160 Elective Offices: Vacancies.

1. A vacancy in the office of Mayor, Councilman or Municipal Judge must be filled by the majority vote of the entire City Council within 30 ~~*[60]*~~ days after the occurrence of that 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 ~~[.]~~ ***, including, without limitation, any applicable residency requirement.***

2. No appointment extends beyond the first regular meeting of the City Council that follows the next general municipal election, at that election the office must be filled for the remainder of the unexpired term, or beyond the first regular meeting of the City Council after the Tuesday after the first Monday in the next succeeding June in an odd-numbered year, if no general municipal election is held in that year.

Sec. 6. ~~[Section 2.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1394, is hereby amended to read as follows:~~

~~Sec. 2.020 Mayor and Councilmen: Qualifications; terms of office; salary.~~

~~1. The Mayor must be a qualified elector who has resided within the territory which is established by the boundaries of the City for a period of not less than 30 days immediately before the last day for filing a declaration of candidacy for that office and be elected by the registered voters of the City at large.~~

~~2. Each Councilman must be a qualified elector who has resided within the ward which he represents for a period of not less than 30 days immediately before the last day for filing a declaration of candidacy for his office and be elected by the registered voters of that ward.~~

~~3. The Mayor or any Councilman automatically forfeits the remainder of his term of office and that office becomes vacant if he ceases to be a resident of the City or of the ward which he represents, as the case may be.~~

~~4. [The] *Except as otherwise provided in section 2 of this act, the* respective salaries of the Mayor and Councilmen must be fixed by ordinance.]~~ **(Deleted by amendment.)**

Sec. 7. Section 2.040 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1394, is hereby amended to read as follows:

Sec. 2.040 Mayor and Councilmen not to hold other office.

1. The Mayor and Councilmen may not:

(a) Hold any other elective office of the State or any political subdivision of the State or any other employment with the County or the City, except as is provided by law or as a member of a board or commission for which no compensation is received.

(b) Be ~~[elected or]~~ appointed to any office which was created, or the compensation for which was increased or fixed, by the City Council until 1 year after the expiration of the term for which the Mayor or Councilman was elected or appointed.

2. Any person who ~~[accepts any office which is proscribed by]~~ ***violates the provisions of*** subsection 1 automatically forfeits his office as Mayor or Councilman.

Sec. 8. Section 2.110 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as amended by chapter 568, Statutes of Nevada 1991, at page 1882, is hereby amended to read as follows:

Sec. 2.110 Ordinances: Procedure for enactment; emergency ordinances.

1. All proposed ordinances, when they are first proposed, must be read to the City Council by title and ***may be*** referred for consideration to a committee which is composed of any number of members of the City Council who are designated by the Mayor, after which an adequate number of copies of the proposed ordinance must be deposited with the City Clerk for public examination and distribution upon request. Except as otherwise provided in subsection 3 and for the adoption of specialized or uniform codes, notice of the deposit must be published once at least 10 days before the adoption of the ordinance. The City Council must adopt or reject the ordinance, or an amendment thereto, within ~~[30]~~ ***60*** days after the date of that publication. ***A committee described in this subsection shall meet as often as is reasonably necessary but not less frequently than once each calendar quarter.***

2. ~~[At the first regular meeting of the City Council, or any adjournment of that meeting, after the proposal of an ordinance and its reference to a committee, the committee must report to the City Council with respect to the proposed ordinance, at which time the committee may request additional time to consider it. The committee must complete its additional consideration of the proposed ordinance and report its recommendations to the board with the 30-day period which is specified in subsection 1. After a recommendation by the committee for the adoption of the proposed ordinance, the]~~ ***Following the first reading by title, an ordinance that has been referred pursuant to subsection 1 must be considered by the committee. Such committee must report its recommendations, if any, to the City Council. Regardless of whether a*** proposed ordinance ***is referred to a committee pursuant to subsection 1, it*** must be read by title as first introduced, or as amended, and finally voted upon or action thereon postponed, but the proposed ordinance must be adopted, with or without amendments, or rejected within ~~[30]~~ ***60*** days after the date of the publication which is provided for in subsection 1.

3. In cases of emergency or where the ordinance is of a kind whose enactment as if an emergency existed is permitted by a provision of NRS or section 7.020 or 8.210 of this Charter, final action, upon the unanimous vote of the entire City Council, may be taken immediately or at a special meeting which has been called for that purpose, and no notice of the filing of copies of the proposed ordinance with the City Clerk need be published.

4. Each ordinance must be signed by the Mayor, attested by the City Clerk and published at least once by title, together with the names of the members of the City Council who voted for or against its adoption, and the ordinance becomes effective on the day after that publication. The City Council may, by majority vote, order the publication of the ordinance in full in lieu of publication by title only.

5. The City Clerk shall record all ordinances which have been adopted in a register which is kept for that purpose, together with the affidavits of publication by the publisher.

Sec. 9. Section 2.130 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1398, is hereby amended to read as follows:

Sec. 2.130 Powers of City Council: Denial, suspension or revocation of work permit; appeal to City Council ~~[.]~~ ***; alternative procedure established by City Council.*** Whenever under any city ordinance a person is required to obtain a work permit or an identification card from the Sheriff of the Las Vegas Metropolitan Police Department or any City officer as a condition of employment in any establishment which has been determined to be privileged by the City Council and licensed by the City, and his work permit or identification card is denied, suspended or revoked by the Sheriff or City officer, the person aggrieved may ~~[appeal from that action]~~ ~~[to]~~ ~~*[:*~~

~~*1. To the City Council]*~~ **,** by filing a written notice of appeal with the City Clerk within 10 days after the date of the denial, suspension or revocation of his work permit or identification card ~~[.]~~ ~~*[; or*~~

~~*2. To any judicial or]*~~ ***, appeal from that action to:***

(a) The City Council, unless the City Council has designated an administrative body pursuant to paragraph (b); or

(b) Any administrative body that the City Council has designated to hear such appeals. If such an administrative body denies a person's appeal, the person may appeal to the City Council.

Sec. 10. (Deleted by amendment.)

Sec. 11. Section 3.150 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1409, is hereby amended to read as follows:

Sec. 3.150 City Treasurer: Duties.

1. The Director of Financial Management may ***serve as the City Treasurer if appropriate internal accounting controls are maintained or may*** recommend ***a City Treasurer*** for appointment by the City Manager **.** ~~[a City Treasurer.]~~

2. The City Treasurer:

(a) Shall perform such duties as may be designated by the Director of Financial Management or prescribed by ordinance.

(b) Must provide a surety bond in the amount which is fixed by the City Council.

Sec. 12. Section 3.190 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1410, is hereby amended to read as follows:

Sec. 3.190 Director of Public Services: Qualifications. The Director of Public Services must ~~[be a licensed professional engineer in the State and]~~ have such ~~[other]~~ qualifications as may be prescribed by ordinance.

Sec. 13. Section 4.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as amended by chapter 127, Statutes of Nevada 1989, at page 283, is hereby amended to read as follows:

Sec. 4.020 Municipal Court: Qualifications of Municipal Judges; salary; Master Judge; departments; Alternate Judges.

1. Each Municipal Judge shall devote his full time to the duties of his office and must be:

(a) A duly licensed member, in good standing, of the State Bar of Nevada, but this qualification does not apply to any Municipal Judge who is an incumbent when this Charter becomes effective as long as he continues to serve as such in uninterrupted terms.

(b) A qualified elector who has resided within the territory which is established by the boundaries of the City for a period of not less than 30 days immediately before the last day for filing a declaration of candidacy for the department for which he is a candidate.

(c) Voted upon by the registered voters of the City at large.

2. The salary of the Municipal Judges must be fixed by ordinance and be uniform for all departments of the Municipal Court. The salary may be increased during the terms for which the Judges are elected or appointed.

3. ~~[The Municipal Judge who holds seniority in years of service in office, either elected or appointed, is the Master Judge. If two or more Judges are equal in seniority, the]~~ ***The Municipal Judges of the six departments shall elect a*** Master Judge ~~[must be chosen]~~ from among ~~[them by the City Council.]~~ ***their number. The Master Judge shall hold office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the position of Master Judge, the Municipal Judges shall elect a replacement for the remainder of the unexpired term. If two or more Municipal Judges receive an equal number of votes for the position of Master Judge, the candidates who have received the tie votes shall resolve the tie vote by the drawing of lots.*** The Master Judge:

(a) Shall establish and enforce administrative regulations for governing the affairs of the Municipal Court.

(b) Is responsible for setting trial dates and other matters which pertain to the Court calendar.

(c) Shall perform such other Court administrative duties as may be required by the City Council.

4. Alternate Judges in sufficient numbers may be appointed annually by the Mayor, each of whom:

(a) Must be a duly licensed member, in good standing, of the State Bar of Nevada and have such other qualifications as are prescribed by ordinance.

(b) Has all of the powers and jurisdiction of a Municipal Judge while he is acting as such.

(c) Is entitled to such compensation as may be fixed by the City Council.

5. Any Municipal Judge, other than an Alternate Judge, automatically forfeits his office if he ceases to be a resident of the City.

Sec. 14. Section 10.010 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as amended by chapter 45, Statutes of Nevada 1991, at page 95, is hereby amended to read as follows:

Sec. 10.010 Civil Service.

1. There is hereby created a System of Civil Service which is applicable to and governs all of the employees of the City except the elected officials, persons who serve as members of boards, commissioners or committees for which no compensation is received, the City Manager, the City Attorney, persons who are appointed pursuant to sections 3.040 and 3.070 of this Charter, persons who hold such probationary, provisional or temporary appointments as are designated in the Civil Service rules, Alternate Judges and persons who hold such other positions as are designated by the City Council.

2. The ***City Council may determine that the*** System of Civil Service must be administered by a Board of Civil Service Trustees which is composed of five members who are appointed by the City Council for terms of 4 years.

3. The City Council shall adopt by ordinance ~~[, following their approval by the Board of Civil Service Trustees,]~~ a codification of the rules which govern the System of Civil Service and may from time to time amend those rules **.** ~~[by ordinance upon the recommendation of the]~~ ***If the System of Civil Service is administered by a*** Board of Civil Service Trustees ~~[. Those]~~ ***, the rules which govern the System of Civil Service, and any amendments thereto, must be reviewed by the Board before the City Council adopts them.***

4. The rules ***which govern the System of Civil Service*** must provide for:

(a) The examination of potential employees;

(b) Recruitment and placement procedures;

(c) The classification of positions;

(d) Procedures for the promotion of employees;

(e) Procedures for disciplinary actions against, and the discharge of, employees;

(f) Appeals with respect to actions which are taken pursuant to paragraphs (d) and (e);

(g) The acceptance and processing of citizens' complaints against employees; and

(h) Such other matters ***, if any,*** as the Board of Civil Service Trustees ***or the City Council*** deems are necessary or appropriate.

~~[4.]~~ ***5.*** Copies of the rules of the System of Civil Service must be made available to all of the employees of the City.

Sec. 15. 1. This section becomes effective upon passage and approval.

2. Section 13 of this act becomes effective upon passage and approval for the purpose of electing a Master Judge and on July 1, 2007, for all other purposes.

3. Sections 1 to 12, inclusive, and 14 of this act become effective on July 1, 2007.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment No. 883 to Assembly Bill No. 514.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

The following Senate amendment was read:

Amendment No. 1003.

AN ACT relating to the City of Las Vegas; making various changes to the powers of the City Council; making various other changes to the Charter of the City of Las Vegas; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides that the City Council of the City of Las Vegas has the power to adopt necessary and proper ordinances for the development and provision of affordable housing, but prohibits the imposition or increase of a tax by the City Council for those purposes unless otherwise authorized by specific statute.

Section 3 of this bill provides that the City Council has the power to adopt necessary and proper ordinances for the development and provision of employment and training programs, but prohibits the imposition or increase of a tax by the City Council for those purposes unless otherwise authorized by specific statute.

Section 4 of this bill provides for the appointment of Hearing Commissioners by the City Council to hear and decide certain misdemeanor actions.

Section 8 of this bill amends the time by which a proposed ordinance must be adopted or rejected by the City Council from 30 days to 60 days. (Las Vegas City Charter § 2.110)

Section 9 of this bill authorizes the City Council to adopt an alternative procedure for a person to appeal the denial, suspension or revocation of a work permit or an identification card. (Las Vegas City Charter § 2.130)

Section ~~[11]~~ **10.3** of this bill ~~[authorizes the Director of Financial Management of the City to serve as the City Treasurer if appropriate internal accounting controls are maintained.]~~ **requires the City Manager to appoint a City Treasurer, subject to ratification by the City Council.** (Las Vegas City Charter ~~[§ 3.150)]~~ **§ 3.070)**

Section 11 of this bill eliminates a requirement that the City Treasurer perform duties designated by the Director of Financial Management, and instead requires the City Treasurer to perform duties that may be prescribed by ordinance by the City Council or designated by the City Manager. (Las Vegas City Charter § 3.150)

Section 12 of this bill removes the requirement that the Director of Public Services be a licensed professional engineer. (Las Vegas City Charter § 3.190)

Existing law provides that a Master Judge must be selected on the basis of seniority. (Las Vegas City Charter § 4.020) Section 13 of this bill provides that the Municipal Judges shall elect the Master Judge from among their own number to serve for a 2-year term. In the event of a tie vote, the tie is to be decided by the drawing of lots.

Section 14 of this bill provides that the City Council may determine that the System of Civil Service must be administered by a Board of Civil Service Trustees. (Las Vegas City Charter § 10.010)

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

Section 1. The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto a new section to be designated as section 2.145, immediately following section 2.140, to read as follows:

Sec. 2.145 Powers of City Council: Affordable Housing.

1. Except as otherwise provided in subsection 2 and in addition to any other powers authorized by specific statute, the City Council may exercise such powers and enact such ordinances, not in conflict with the laws of this State, as the City Council determines are necessary and proper for the development and provision of affordable housing.

2. The City Council shall not impose or increase a tax for the purposes set forth in subsection 1 unless the tax or increase is otherwise authorized by specific statute.

Sec. 2. (Deleted by amendment.)

Sec. 3. The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto a new section to be designated as section 3.300, immediately following section 3.290, to read as follows:

Sec. 3.300 Programs: Employment and Training.

1. Except as otherwise provided in subsection 2 and in addition to any other powers authorized by specific statute, the City Council may exercise such powers and enact such ordinances, not in conflict with the laws of this State, as the City Council determines are necessary and proper for the development and provision of programs relating to employment and training.

2. The City Council shall not impose or increase a tax for the purposes set forth in subsection 1 unless the tax or increase is otherwise authorized by specific statute.

Sec. 4. The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto a new section to be designated as section 4.040, immediately following section 4.030, to read as follows:

Sec. 4.040 Hearing Commissioners.

1. The City Council may appoint one or more Hearing Commissioners to hear and decide:

(a) Any action for a misdemeanor constituting a violation of chapter 484 of NRS, except NRS 484.379; and

(b) Any action for a misdemeanor constituting a violation of the Las Vegas Municipal Code, except chapter 11.14 of that Code.

2. Each Hearing Commissioner must:

(a) Be a duly licensed member, in good standing, of the State Bar of Nevada;

(b) Be a resident of the State;

(c) Be a qualified elector in the City;

(d) Have been a bona fide resident of the City for not less than 1 year next preceding his appointment; and

(e) Not have ever been removed or retired from any judicial office by the Commission on Judicial Discipline.

3. In connection with any action of a type described in subsection 1, a Hearing Commissioner has all the powers and duties of a Municipal Judge and a magistrate pursuant to the laws of this State. To the extent possible and practicable, the proceedings in such actions must be subject to and governed by the provisions of the laws of this State, this Charter and city ordinances pertaining to Municipal Judges.

4. Hearing Commissioners shall receive such compensation as may be allowed by the City Council.

Sec. 5. Section 1.160 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 515, Statutes of Nevada 1997, at page 2451, is hereby amended to read as follows:

Sec. 1.160 Elective Offices: Vacancies.

1. A vacancy in the office of Mayor, Councilman or Municipal Judge must be filled by the majority vote of the entire City Council within 30 days after the occurrence of that 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 ~~[.]~~ ***, including, without limitation, any applicable residency requirement.***

2. No appointment extends beyond the first regular meeting of the City Council that follows the next general municipal election, at that election the office must be filled for the remainder of the unexpired term, or beyond the first regular meeting of the City Council after the Tuesday after the first Monday in the next succeeding June in an odd-numbered year, if no general municipal election is held in that year.

Sec. 6. (Deleted by amendment.)

Sec. 7. Section 2.040 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1394, is hereby amended to read as follows:

Sec. 2.040 Mayor and Councilmen not to hold other office.

1. The Mayor and Councilmen may not:

(a) Hold any other elective office of the State or any political subdivision of the State or any other employment with the County or the City, except as is provided by law or as a member of a board or commission for which no compensation is received.

(b) Be ~~[elected or]~~ appointed to any office which was created, or the compensation for which was increased or fixed, by the City Council until 1 year after the expiration of the term for which the Mayor or Councilman was elected or appointed.

2. Any person who ~~[accepts any office which is proscribed by]~~ ***violates the provisions of*** subsection 1 automatically forfeits his office as Mayor or Councilman.

Sec. 8. Section 2.110 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as amended by chapter 568, Statutes of Nevada 1991, at page 1882, is hereby amended to read as follows:

Sec. 2.110 Ordinances: Procedure for enactment; emergency ordinances.

1. All proposed ordinances, when they are first proposed, must be read to the City Council by title and ***may be*** referred for consideration to a committee which is composed of any number of members of the City Council who are designated by the Mayor, after which an adequate number of copies of the proposed ordinance must be deposited with the City Clerk for public examination and distribution upon request. Except as otherwise provided in subsection 3 and for the adoption of specialized or uniform codes, notice of the deposit must be published once at least 10 days before the adoption of the ordinance. The City Council must adopt or reject the ordinance, or an amendment thereto, within ~~[30]~~ ***60*** days after the date of that publication. ***A committee described in this subsection shall meet as often as is reasonably necessary but not less frequently than once each calendar quarter.***

2. ~~[At the first regular meeting of the City Council, or any adjournment of that meeting, after the proposal of an ordinance and its reference to a committee, the committee must report to the City Council with respect to the proposed ordinance, at which time the committee may request additional time to consider it. The committee must complete its additional consideration of the proposed ordinance and report its recommendations to the board with the 30-day period which is specified in subsection 1. After a recommendation by the committee for the adoption of the proposed ordinance, the]~~ ***Following the first reading by title, an ordinance that has been referred pursuant to subsection 1 must be considered by the committee. Such committee must report its recommendations, if any, to the City Council. Regardless of whether a*** proposed ordinance ***is referred to a committee pursuant to***

subsection 1, it must be read by title as first introduced, or as amended, and finally voted upon or action thereon postponed, but the proposed ordinance must be adopted, with or without amendments, or rejected within ~~[30]~~ ***60*** days after the date of the publication which is provided for in subsection 1.

3. In cases of emergency or where the ordinance is of a kind whose enactment as if an emergency existed is permitted by a provision of NRS or section 7.020 or 8.210 of this Charter, final action, upon the unanimous vote of the entire City Council, may be taken immediately or at a special meeting which has been called for that purpose, and no notice of the filing of copies of the proposed ordinance with the City Clerk need be published.

4. Each ordinance must be signed by the Mayor, attested by the City Clerk and published at least once by title, together with the names of the members of the City Council who voted for or against its adoption, and the ordinance becomes effective on the day after that publication. The City Council may, by majority vote, order the publication of the ordinance in full in lieu of publication by title only.

5. The City Clerk shall record all ordinances which have been adopted in a register which is kept for that purpose, together with the affidavits of publication by the publisher.

Sec. 9. Section 2.130 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1398, is hereby amended to read as follows:

Sec. 2.130 Powers of City Council: Denial, suspension or revocation of work permit; appeal to City Council ~~[.]~~ ***; alternative procedure established by City Council.*** Whenever under any city ordinance a person is required to obtain a work permit or an identification card from the Sheriff of the Las Vegas Metropolitan Police Department or any City officer as a condition of employment in any establishment which has been determined to be privileged by the City Council and licensed by the City, and his work permit or identification card is denied, suspended or revoked by the Sheriff or City officer, the person aggrieved may ~~[appeal from that action to the City Council]~~ **,** by filing a written notice of appeal with the City Clerk within 10 days after the date of the denial, suspension or revocation of his work permit or identification card ~~[.]~~ ***, appeal from that action to:***

(a) The City Council, unless the City Council has designated an administrative body pursuant to paragraph (b); or

(b) Any administrative body that the City Council has designated to hear such appeals. If such an administrative body denies a person's appeal, the person may appeal to the City Council.

Sec. 10. (Deleted by amendment.)

Sec. 10.3. **Section 3.070 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 45, Statutes of Nevada 1991, at page 93, is hereby amended to read as follows:**

Sec. 3.070 Appointive officers: Appointment by City Manager. The City Manager shall appoint the following officers, subject to ratification by the City Council:

1. Director of Financial Management.
2. Director of Public Services.
3. Fire Chief.
4. City Clerk.
5. ***City Treasurer.***

6. A Director of each department which is established pursuant to section 3.060 of this Charter.

~~[6.]~~ ***7.*** Such other officers as may be necessary.

Sec. 10.5. **Section 3.140 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1409, is hereby amended to read as follows:**

Sec. 3.140 Department of Financial Management: Audits.

1. The Department of Financial Management shall maintain complete records of all fiscal transactions of and claims against the City.

2. Before payment, all claims and accounts against the City must be approved by the Department of Financial Management. No money may be paid for any purpose except by following procedures which have been approved by the City Council. The City Treasurer shall prepare all warrants, to be drawn against the proper accounts, in payment of those claims. The warrants which are issued must bear the signatures of the Director of Financial Management and the City Treasurer**.** ~~[, if any.]~~ Facsimile signatures may be permitted under the procedures which are prescribed by ordinance.

Sec. 11. Section 3.150 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1409, is hereby amended to read as follows:

Sec. 3.150 City Treasurer: Duties.

~~[1. The Director of Financial Management may *serve as the City Treasurer if appropriate internal accounting controls are maintained or may* recommend *a City Treasurer* for appointment by the City Manager.]~~ ~~[a City Treasurer.]~~

~~[2.]~~ The City Treasurer:

~~[(a)]~~ ***1.*** Shall perform such duties as may be ~~[designated by the Director of Financial Management or]~~ prescribed by ordinance **[.]** ***or designated by the City Manager pursuant to section 3.180.***

~~[(b)]~~ ***2.*** Must provide a surety bond in the amount which is fixed by the City Council.

Sec. 12. Section 3.190 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1410, is hereby amended to read as follows:

Sec. 3.190 Director of Public Services: Qualifications. The Director of Public Services must ~~[be a licensed professional engineer in the State and]~~ have such ~~[other]~~ qualifications as may be prescribed by ordinance.

Sec. 13. Section 4.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as amended by chapter 127, Statutes of Nevada 1989, at page 283, is hereby amended to read as follows:

Sec. 4.020 Municipal Court: Qualifications of Municipal Judges; salary; Master Judge; departments; Alternate Judges.

1. Each Municipal Judge shall devote his full time to the duties of his office and must be:

(a) A duly licensed member, in good standing, of the State Bar of Nevada, but this qualification does not apply to any Municipal Judge who is an incumbent when this Charter becomes effective as long as he continues to serve as such in uninterrupted terms.

(b) A qualified elector who has resided within the territory which is established by the boundaries of the City for a period of not less than 30 days immediately before the last day for filing a declaration of candidacy for the department for which he is a candidate.

(c) Voted upon by the registered voters of the City at large.

2. The salary of the Municipal Judges must be fixed by ordinance and be uniform for all departments of the Municipal Court. The salary may be increased during the terms for which the Judges are elected or appointed.

3. ~~[The Municipal Judge who holds seniority in years of service in office, either elected or appointed, is the Master Judge. If two or more Judges are equal in seniority, the]~~ ***The Municipal Judges of the six departments shall elect a*** Master Judge ~~[must be chosen]~~ from among ~~[them by the City Council.]~~ ***their number. The Master Judge shall hold office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the position of Master Judge, the Municipal Judges shall elect a replacement for the remainder of the unexpired term. If two or more Municipal Judges receive an equal number of votes for the position of Master Judge, the candidates who have received the tie votes shall resolve the tie vote by the drawing of lots.*** The Master Judge:

(a) Shall establish and enforce administrative regulations for governing the affairs of the Municipal Court.

(b) Is responsible for setting trial dates and other matters which pertain to the Court calendar.

(c) Shall perform such other Court administrative duties as may be required by the City Council.

4. Alternate Judges in sufficient numbers may be appointed annually by the Mayor, each of whom:

(a) Must be a duly licensed member, in good standing, of the State Bar of Nevada and have such other qualifications as are prescribed by ordinance.

(b) Has all of the powers and jurisdiction of a Municipal Judge while he is acting as such.

(c) Is entitled to such compensation as may be fixed by the City Council.

5. Any Municipal Judge, other than an Alternate Judge, automatically forfeits his office if he ceases to be a resident of the City.

Sec. 14. Section 10.010 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as amended by chapter 45, Statutes of Nevada 1991, at page 95, is hereby amended to read as follows:

Sec. 10.010 Civil Service.

1. There is hereby created a System of Civil Service which is applicable to and governs all of the employees of the City except the elected officials, persons who serve as members of boards, commissioners or committees for which no compensation is received, the City Manager, the City Attorney, persons who are appointed pursuant to sections 3.040 and 3.070 of this Charter, persons who hold such probationary, provisional or temporary appointments as are designated in the Civil Service rules, Alternate Judges and persons who hold such other positions as are designated by the City Council.

2. The ***City Council may determine that the*** System of Civil Service must be administered by a Board of Civil Service Trustees which is composed of five members who are appointed by the City Council for terms of 4 years.

3. The City Council shall adopt by ordinance ~~[, following their approval by the Board of Civil Service Trustees,]~~ a codification of the rules which govern the System of Civil Service and may from time to time amend those rules ***.*** ~~[by ordinance upon the recommendation of the]~~ ***If the System of Civil Service is administered by a*** Board of Civil Service Trustees ~~[. Those]~~ ***, the rules which govern the System of Civil Service, and any amendments thereto, must be reviewed by the Board before the City Council adopts them.***

4. The rules ***which govern the System of Civil Service*** must provide for:

(a) The examination of potential employees;

(b) Recruitment and placement procedures;

(c) The classification of positions;

(d) Procedures for the promotion of employees;

(e) Procedures for disciplinary actions against, and the discharge of, employees;

(f) Appeals with respect to actions which are taken pursuant to paragraphs (d) and (e);

(g) The acceptance and processing of citizens' complaints against employees; and

(h) Such other matters ***, if any,*** as the Board of Civil Service Trustees ***or the City Council*** deems are necessary or appropriate.

~~[4.]~~ ***5.*** Copies of the rules of the System of Civil Service must be made available to all of the employees of the City.

Sec. 15. 1. This section becomes effective upon passage and approval.

2. Section 13 of this act becomes effective upon passage and approval for the purpose of electing a Master Judge and on July 1, 2007, for all other purposes.

3. Sections 1 to 12, inclusive, and 14 of this act become effective on July 1, 2007.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment No. 1003 to Assembly Bill No. 514.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 600.

The following Senate amendment was read:

Amendment No. 851.

AN ACT relating to privacy; revising provisions concerning the protection of certain personal identifying information; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, documents submitted to governmental agencies must not include the social security number of a person except in certain circumstances. (NRS 239B.030) Existing law also prohibits public bodies from disclosing on their websites personal information about a person, except in certain circumstances. Personal information is defined to mean the person's name in combination with his social security number, driver's license number or certain other account numbers. (NRS 239B.050, 603A.040) Sections 2 and 3 of this bill make consistent the information that is protected from disclosure by public entities on documents submitted to the entity or on the entity's website. Section 2 also authorizes a person to request ~~[the redaction of]~~ **a governmental agency to redact or maintain in a confidential manner his** personal information ~~[from]~~ **in** documents submitted to ~~[a]~~ **the** governmental agency before January 1, 2007 ~~[.]~~ **, and prescribes the requirements for such a request.** Section 8 of this bill provides that the last 4 digits of a social security number are not personal information for the purposes of these provisions.

Section 1 of this bill provides certain immunity to officers, employees and members of a governmental agency or public body relating to the disclosure of personal information pursuant to section 2 or 3 of this bill.

Section 4 of this bill authorizes the use of the last four digits of a social security number in judgments, and sections 5 and 7 of this bill remove the requirement of the inclusion of a social security number on certificates of marriage and forms for the reporting of divorces and annulments. (NRS 122.160, 440.135) Section 6 of this bill authorizes the county recorder to allow the inspection and copying of certain records by family members, guardians and personal representatives. (NRS 247.090)

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

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

1. An officer, employee or member of a governmental agency or public body is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, in carrying out the provisions of NRS 239B.030 or 239B.050.

2. As used in this section:

(a) "Governmental agency" means an officer, board, commission, department, division, bureau, district or any other unit of government of the State or a local government.

(b) "Public body" has the meaning ascribed to it in NRS 205.462.

Sec. 2. NRS 239B.030 is hereby amended to read as follows:

239B.030 1. Except as otherwise provided in ~~[subsection]~~ ***subsections*** 2 ~~[,]~~ ***and 6,*** a person shall not include and a governmental agency shall not require a person to include ~~[the social security number of]~~ ***any personal information about*** a person on any document that is recorded, filed or otherwise submitted to the governmental agency on or after January 1, 2007.

2. If ~~[the social security number of]~~ ***personal information about*** a person is required to be included in a document that is recorded, filed or otherwise submitted to a governmental agency on or after January 1, 2007, pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant, a governmental agency shall ensure that the ~~[social security number]~~ ***personal information*** is maintained in a confidential manner ~~*[or obliterated or otherwise removed by any method, including, without limitation, through the use of computer software,]*~~ and may only disclose the ~~[social security number]~~ ***personal information*** as required:

(a) To carry out a specific state or federal law; or

(b) For the administration of a public program or an application for a federal or state grant.

➥ ***Any action taken by a governmental agency pursuant to this subsection must not be construed as affecting the legality of the document.***

3. A governmental agency shall take necessary measures to ensure that notice of the provisions of this section is provided to persons with whom it conducts business. Such notice may include, without limitation, posting notice in a conspicuous place in each of its offices.

4. A governmental agency may require a person who records, files or otherwise submits any document to the governmental agency to provide an affirmation that the document does not contain ~~[the social security number of]~~ ***personal information about*** any person ~~[,]~~ ***or, if the document contains any such personal information, identification of the specific law, public program or grant that requires the inclusion of the personal information.***

A governmental agency may refuse to record, file or otherwise accept a document which does not contain such an affirmation when required ~~[and]~~ ***or*** any document which contains ~~[the social security number of]~~ ***personal information about*** a person ~~[.]~~ ***that is not required to be included in the document pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant.***

5. On or before January 1, 2017, each governmental agency shall ensure that any ~~[social security number]~~ ***personal information*** contained in a document that has been recorded, filed or otherwise submitted to the governmental agency before January 1, 2007, which the governmental agency continues to hold is ~~[maintained]~~ ***:***

(a) Maintained in a confidential manner ***if the personal information is required to be included in the document pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant;*** or ~~[is obliterated]~~

(b) Obliterated or otherwise removed from the document ~~[.]~~ ***, by any method, including, without limitation, through the use of computer software*** ~~[.]~~ ***, if the personal information is not required to be included in the document pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant.***

➥ Any action taken by a governmental agency pursuant to this subsection must not be construed as affecting the legality of the document.

6. ***A person may request that a governmental agency obliterate or otherwise remove from any document submitted by the person to the governmental agency before January 1, 2007, any personal information about the person contained in the document*** ~~[.]~~ ***that is not required to be included in the document pursuant to a specific state or federal law, for the administration of a public program or for an application for a federal or state grant or, if the personal information is so required to be included in the document, the person may request that the governmental agency maintain the personal information in a confidential manner. If any documents that have been recorded, filed or otherwise submitted to a governmental agency:***

(a) Are maintained in an electronic format that allows the governmental agency to retrieve components of personal information through the use of computer software, a request pursuant to this subsection must identify the components of personal information to be retrieved. The provisions of this paragraph do not require a governmental agency to purchase computer software to perform the service requested pursuant to this subsection.

(b) Are not maintained in an electronic format or not maintained in an electronic format in the manner described in paragraph (a), a request pursuant to this subsection must describe the document with sufficient specificity to enable the governmental agency to identify the document.

➥ The governmental agency shall not charge any fee to perform ~~[such a]~~ the service ~~[.]~~ requested pursuant to this subsection.

7. As used in this section ~~[, "governmental]~~ ***:***

(a) "Governmental agency" means an officer, board, commission, department, division, bureau, district or any other unit of government of the State or a local government.

(b) "Personal information" has the meaning ascribed to it in NRS 603A.040.

Sec. 3. NRS 239B.050 is hereby amended to read as follows:

239B.050 1. If a public body maintains a website on the Internet, the public body shall not disclose on that website personal information unless the disclosure is required by a federal or state ~~[statute or regulation.]~~ ***law or for the administration of a public program or an application for a federal or state grant.***

2. If it appears that a public body has engaged in or is about to engage in any act or practice which violates subsection 1, the Attorney General or the appropriate district attorney may file an action in any court of competent jurisdiction for an injunction to prevent the occurrence or continuance of that act or practice.

3. An injunction:

(a) May be issued without proof of actual damage sustained by any person.

(b) Does not preclude the criminal prosecution and punishment of an act or practice that may otherwise be prohibited by law.

4. As used in this section:

(a) "Personal information" has the meaning ascribed to it in NRS 603A.040.

(b) "Public body" has the meaning ascribed to it in NRS 205.462.

Sec. 4. NRS 17.150 is hereby amended to read as follows:

17.150 1. Immediately after filing a judgment roll the clerk shall make the proper entries of the judgment, under appropriate heads, in the docket kept by him, noting thereon the hour and minutes of the day of such entries.

2. A transcript of the original docket or an abstract or copy of any judgment or decree of a district court of the State of Nevada or the District Court or other court of the United States in and for the District of Nevada, the enforcement of which has not been stayed on appeal, certified by the clerk of the court where the judgment or decree was rendered, may be recorded in the office of the county recorder in any county, and when so recorded it becomes a lien upon all the real property of the judgment debtor not exempt from execution in that county, owned by him at the time, or which he may afterward acquire, until the lien expires. The lien continues for 6 years after the date the judgment or decree was docketed, and is continued each time the judgment or decree is renewed, unless:

(a) The enforcement of the judgment or decree is stayed on appeal by the execution of a sufficient undertaking as provided in the Nevada Rules of

Appellate Procedure or by the Statutes of the United States, in which case the lien of the judgment or decree and any lien by virtue of an attachment that has been issued and levied in the actions ceases;

(b) The judgment is for arrearages in the payment of child support, in which case the lien continues until the judgment is satisfied;

(c) The judgment is satisfied; or

(d) The lien is otherwise discharged.

➥ The time during which the execution of the judgment is suspended by appeal, action of the court or defendant must not be counted in computing the time of expiration.

3. The abstract described in subsection 2 must contain the:

(a) Title of the court and the title and number of the action;

(b) Date of entry of the judgment or decree;

(c) Names of the judgment debtor and judgment creditor;

(d) Amount of the judgment or decree; and

(e) Location where the judgment or decree is entered in the minutes or judgment docket.

4. A judgment creditor who records a judgment or decree shall record at that time an affidavit stating:

(a) The name and address of the judgment debtor;

(b) The judgment debtor's driver's license number and state of issuance or the ***last four digits of the*** judgment debtor's social security number; and

(c) The judgment debtor's date of birth,

➥ if known to the judgment creditor. If any of the information is not known, the affidavit must include a statement of that fact.

Sec. 5. NRS 122.160 is hereby amended to read as follows:

122.160 1. Marriages between Indians performed in accordance with tribal customs within closed Indian reservations and Indian colonies have the same validity as marriages performed in any other manner provided for by the laws of this State, if there is recorded in the county in which the marriage takes place, within 30 days after the performance of the tribal marriage, a certificate declaring the marriage to have been performed.

2. The certificate of declaration required to be recorded by subsection 1 must include the names of the persons married, their ages, ~~[social security numbers,]~~ tribe, and place and date of marriage. The certificate must be signed by an official of the tribe, reservation or colony.

3. The certificate must be recorded with the recorder of the county in which the marriage was performed and recorded by him without charge.

Sec. 6. NRS 247.090 is hereby amended to read as follows:

247.090 ~~[All]~~ ***1. Except as otherwise provided in subsection 2 and NRS 239B.030, all*** documents on file in the office of the county recorder, must, during office hours, be open for inspection by any person without charge. The county recorder must arrange the books of record and indexes in his office in such suitable places as to facilitate their inspection.

2. A county recorder may allow inspection and copying of records containing personal information about a deceased or incapacitated person by a spouse, widow or widower, parent, sibling, child, guardian or personal representative of the person. As used in this subsection, "personal information" has the meaning ascribed to in NRS 603A.040.

Sec. 7. NRS 440.135 is hereby amended to read as follows:

440.135 1. The Board shall prescribe, and the State Registrar shall furnish in sufficient numbers to each county clerk for distribution, a form for the reporting of divorces and annulments of marriage.

2. The information required by such form must be limited to:

(a) The names ~~[and social security numbers]~~ of the parties;

(b) The court and county in which the decree is granted; and

(c) The date of the decree.

Sec. 8. NRS 603A.040 is hereby amended to read as follows:

603A.040 "Personal information" means a natural person's first name or first initial and last name in combination with any one or more of the following data elements, when the name and data elements are not encrypted:

1. Social security number.

2. Driver's license number or identification card number.

3. Account number, credit card number or debit card number, in combination with any required security code, access code or password that would permit access to the person's financial account.

➥ The term does not include ***the last four digits of a social security number or*** publicly available information that is lawfully made available to the general public.

Sec. 9. 1. This section, section 1 and sections 3 to 8, inclusive, of this act become effective upon passage and approval.

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

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 600.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 558.

The following Senate amendment was read:

Amendment No. 950.

SUMMARY— ~~[Authorizes]~~ **Provides that** governing bodies ~~[to reject]~~ **may not accept** certain incomplete applications relating to land use. (BDR 22-431)

AN ACT relating to ~~[planning and zoning; authorizing]~~ **land use planning; providing that** governing bodies ~~[to reject]~~ **may not accept** certain land use applications if the applications are incomplete; requiring governing bodies to describe the additional information required to make

such an application complete; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the governing bodies of cities and counties to regulate and restrict land use within their jurisdictions. (NRS 278.020) Section 1 of this bill ~~[authorizes]~~ **provides that** governing bodies ~~[to reject]~~ **may not accept** land use applications if the applications are incomplete. Section 1 also requires governing bodies ~~[that have rejected]~~ **, when returning incomplete** applications **,** ~~[that are incomplete]~~ to: (1) describe to the applicant the additional information required; and (2) if requested by the applicant, **provide a copy of the relevant provision of the ordinance, resolution or regulation that requires the additional information or** explain why the additional information is necessary. ~~[Section 1 of this bill clarifies that its provisions apply only with respect to the review, acceptance or rejection of land use applications for the purpose of processing, and do not affect other substantive provisions of law.]~~

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

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

1. Any application submitted to a governing body or its designee ~~[, which application]~~ that concerns any matter relating to land use planning pursuant to NRS 278.010 to 278.630, inclusive, or any ordinance, resolution or regulation adopted pursuant thereto, may not be ~~[rejected]~~ accepted by the governing body or its designee if the application is incomplete.

2. The governing body or its designee shall, within 3 working days after receiving an application of the type described in subsection 1:

(a) Review the application for completeness;

(b) Accept the application if the governing body or its designee finds that the application is complete or ~~[reject]~~ return the application ~~[.]~~ if the governing body or its designee finds that the application is incomplete; and

(c) If ~~[it rejects]~~ the governing body or its designee returns the application:

(1) Provide to the applicant a description of the additional information required; and

(2) If requested by the applicant, provide to the applicant a copy of the relevant provision of the ordinance, resolution or regulation which specifically requires the additional information or an explanation of why the additional information is necessary.

~~*[3. The provisions of this section:*~~

~~*(a) Apply with respect to an application of the type described in subsection 1 only for the limited purposes of:*~~

~~*(1) Determining whether the application is sufficiently complete to be processed; and*~~

~~*(2) Accepting or rejecting the application on that basis; and*~~

~~*(b) Do not alter, limit or otherwise affect the operation of any statute or regulation of this State which prescribes standards, criteria or other requirements relating to the submission, acceptance, approval or rejection of such an application.]*~~

Sec. 2. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, have the meanings ascribed to them in those sections.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 558.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 285.

The following Senate amendment was read:

Amendment No. 812.

SUMMARY—Revises provisions governing ~~[certain transfers of groundwater.]~~ **the appropriation of water.** (BDR 48-913)

AN ACT relating to water; **clarifying the authority of the State Engineer relating to the appropriation, allocation and determination of availability of unappropriated water; authorizing the State Engineer to consider the consumptive use of a water right under certain circumstances; authorizing the State Engineer to limit the initial use of water upon approval of an application to appropriate water under certain circumstances; making various other changes concerning the powers and duties of the State Engineer;** revising provisions relating to the protest of certain applications involving interbasin transfers of groundwater; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Chapter 533 of NRS provides for the adjudication of water rights and the appropriation of water by the State Engineer. Section 1 of this bill provides that the State Engineer has full and exclusive authority with respect to the appropriation, allocation and determination of availability of unappropriated water and the place of diversion, manner of use and place of use of appropriated water. Section 3 of this bill authorizes the State Engineer to consider the consumptive use of a water right in determining the appropriateness of approving a proposed change in the place of diversion, manner of use or place of use of water pursuant to that right. Section 4 of this bill authorizes the State Engineer, upon approval of an application to appropriate water, to limit the initial use of

that water to an amount that is less than the total amount approved. If the State Engineer at a later date determines that water is available for the total amount approved for the application, he may authorize the use of that additional amount.

Existing law provides for interested persons to protest applications to appropriate water. (NRS 533.365) Section 5 of this bill authorizes the State Engineer to refuse to consider a protest if certain information concerning the protest is not received by the State Engineer. Section 5 makes various other changes concerning protests before the State Engineer, including, without limitation, requiring the State Engineer to render a decision regarding each application within 240 days after a hearing on the application and authorizing a successor in interest of a person who has filed a written protest to the application to be allowed to continue pursuing the protest in the same manner as the person who filed the original protest.

Existing law sets forth requirements for the State Engineer to provide certain notice of an application for a permit to appropriate water. These requirements include publishing the notice in a newspaper and if the application is for a well, mailing a copy of the notice to owners of real property containing a domestic well that is within 2,500 feet of the proposed well. (NRS 533.360) ~~[Existing law also allows an interested person to file with the State Engineer a written protest to the application. (NRS 533.365)~~

~~This]~~ **Section 6 of this** bill requires that if the State Engineer fails to grant, deny or hear an application for a permit to appropriate, change the point of diversion of, change the manner of use of, or change the place of use of more than 250 acre-feet of water per annum within 7 years after the date on which the application was submitted, the State Engineer must, if the application involves an interbasin transfer of groundwater, notice a new period of protest of 45 days. ~~[This bill also provides that certain successors in interest of persons who had already filed a written protest against the granting of such an application must be allowed to continue pursuing the protest as though they were the person who had filed the original protest.]~~

Existing law authorizes the State Engineer, for good cause shown, to extend the time within which water must be applied to a beneficial use under a permit for that right. (NRS 533.380) Section 7 of this bill authorizes the State Engineer to grant such an extension of time if the permit is the subject of a pending judicial proceeding.

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

Section 1. **Chapter 532 of NRS is hereby amended by adding thereto a new section to read as follows:**

The State Engineer has full, exclusive and final authority with respect to:

1. The appropriation, allocation and determination of availability of unappropriated water; and

2. The place of diversion, manner of use and place of use of appropriated water.

Sec. 2. **Chapter 533 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.**

Sec. 3. ***1. The State Engineer may consider the consumptive use of a water right and the consumptive use of a proposed beneficial use of water in determining whether a proposed change in the place of diversion, manner of use or place of use complies with the provisions of subsection 5 of NRS 533.370.***

2. The provisions of this section:

(a) Must not be applied by the State Engineer in a manner that is inconsistent with any applicable federal or state decree concerning consumptive use.

(b) Do not apply to any decreed, certified or permitted right to appropriate water which originates in the Virgin River or the Muddy River.

Sec. 4. ***1. Upon approval of an application to appropriate water, the State Engineer may limit the initial use of water to a quantity that is less than the total amount approved for the application. The use of an additional amount of water that is not more than the total amount approved for the application may be authorized by the State Engineer at a later date if additional evidence demonstrates to the satisfaction of the State Engineer that the additional amount of water is available and may be appropriated in accordance with this chapter and chapter 534 of NRS. In making that determination, the State Engineer may establish a period during which additional studies may be conducted or additional evidence provided to support the application.***

2. In any basin in which an application to appropriate water is approved pursuant to subsection 1, the State Engineer may, pursuant to this chapter and chapter 534 of NRS, act upon any other pending application to appropriate water in that basin that the State Engineer concludes constitutes the use of a minimal amount of water.

~~[Section 1.]~~ ***Sec. 5.*** NRS 533.365 is hereby amended to read as follows:

533.365 1. Any person interested may, within 30 days ~~[from]~~ ***after*** the date of last publication of the notice of application, file with the State Engineer a written protest against the granting of the application, setting forth with reasonable certainty the grounds of such protest, which ~~[shall]~~ ***must*** be verified by the affidavit of the protestant, his agent or attorney.

2. On receipt of a protest, the State Engineer shall advise the applicant whose application has been protested of the fact that the protest has been filed with him, which advice ~~[shall]~~ ***must*** be sent by certified mail.

3. ~~[The]~~ ***Except as otherwise provided in subsection 4, the*** State Engineer shall consider the protest, and may ~~[, in his discretion,]~~ hold

hearings and require the filing of such evidence as he may deem necessary to a full understanding of the rights involved. The State Engineer shall give notice of the hearing by certified mail to both the applicant and the protestant. The notice must state the time and place at which the hearing is to be held and must be mailed at least 15 days before the date set for the hearing.

4. ***In addition to the provisions of subsection 5, the State Engineer may refuse to consider the protest if the protestant fails to provide information relating to the protest required by the State Engineer.***

5. Each applicant and each protestant shall, in accordance with a schedule established by the State Engineer, provide to the State Engineer and to each protestant and each applicant information required by the State Engineer relating to the application or protest.

6. The State Engineer or any member of his technical staff may communicate with any applicant, protestant, interested person, governmental entity, technical representative or expert for the purposes of obtaining information which the State Engineer deems necessary to act on a protested application if the State Engineer:

(a) Provides notice of the communication to each applicant, protestant, interested person, governmental entity, technical representative or expert with whom the State Engineer did not communicate with regard to the protested application; and

(b) Provides an opportunity to respond to each applicant, protestant, interested person, governmental entity, technical representative or expert specified in paragraph (a).

7. The State Engineer may invite technical representatives of the applicant, the protestant, an interested person or a governmental entity to meet with the technical staff of the State Engineer to consider issues relating to an application to appropriate water.

8. If the State Engineer holds a hearing pursuant to subsection 3, the State Engineer shall render a decision on each application not later that 240 days after the later of:

(a) The date all transcripts of the hearing become available to the State Engineer; or

(b) The date specified by the State Engineer for the filing of any additional information, evidence, studies or compilations requested by the State Engineer. The State Engineer may, for good cause shown, extend any applicable period.

9. The State Engineer shall adopt rules of practice regarding the conduct of ~~[such hearings.]~~ ***a hearing held pursuant to subsection 3.*** The rules of practice must be adopted in accordance with the provisions of NRS 233B.040 to 233B.120, inclusive, and codified in the Nevada Administrative Code. The technical rules of evidence do not apply at such a hearing.

~~*[5.]*~~ ***10. If a person is the successor in interest of an owner of a water right or an owner of real property upon which a domestic well is located***

and if the former owner had previously filed a written protest against the granting of an application, the successor in interest must be allowed to pursue that protest in the same manner as if he were the former owner whose interest he succeeded. If the successor in interest wishes to pursue the protest, the successor in interest must notify the State Engineer of that fact on a form prescribed by the State Engineer.

11. The provisions of this section do not prohibit the noticing of a new period of 45 days in which a person may file with the State Engineer a written protest against the granting of the application, if such notification is required to be given pursuant to subsection 8 of NRS 533.370.

12. As used in this section, "domestic well" has the meaning ascribed to it in NRS 534.350.

~~[Sec. 2.]~~ ***Sec. 6.*** NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in this section and NRS 533.345, 533.371, 533.372 and 533.503, the State Engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

(a) The application is accompanied by the prescribed fees;

(b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the efficiency of the district in its delivery or use of water; and

(c) The applicant provides proof satisfactory to the State Engineer of:

(1) His intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and

(2) His financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.

2. Except as otherwise provided in this subsection and subsections 3 and ~~[8,]~~ ~~*[11,]*~~ ***10 and NRS 533.365,*** the State Engineer shall approve or reject each application within 1 year after the final date for filing a protest. The State Engineer may:

(a) Postpone action upon written authorization to do so by the applicant or, if an application is protested, by the protestant and the applicant.

(b) Postpone action if the purpose for which the application was made is municipal use.

(c) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

3. Except as otherwise provided in subsection ~~[8,]~~ ~~*[11,]*~~ ***10,*** the State Engineer shall approve or reject, within 6 months after the final date for filing a protest, an application filed to change the point of diversion of water already appropriated when the existing and proposed points of diversion are on the same property for which the water has already been appropriated

under the existing water right or the proposed point of diversion is on real property that is proven to be owned by the applicant and is contiguous to the place of use of the existing water right. The State Engineer may:

(a) Postpone action upon written authorization to do so by the applicant or, if the application is protested, by the protestant and the applicant.

(b) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

4. If the State Engineer does not act upon an application within 1 year after the final date for filing a protest, the application remains active until acted upon by the State Engineer.

5. Except as otherwise provided in subsection ~~[8,]~~ ~~*[11,]*~~ ***10,*** where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights or with protectible interests in existing domestic wells as set forth in NRS 533.024, or threatens to prove detrimental to the public interest, the State Engineer shall reject the application and refuse to issue the requested permit. If a previous application for a similar use of water within the same basin has been rejected on those grounds, the new application may be denied without publication.

6. In determining whether an application for an interbasin transfer of groundwater must be rejected pursuant to this section, the State Engineer shall consider:

(a) Whether the applicant has justified the need to import the water from another basin;

(b) If the State Engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;

(c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;

(d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and

(e) Any other factor the State Engineer determines to be relevant.

7. If a hearing is held regarding an application, the decision of the State Engineer must be in writing and include findings of fact, conclusions of law and a statement of the underlying facts supporting the findings of fact. The written decision may take the form of a transcription of an oral ruling. The rejection or approval of an application must be endorsed on a copy of the original application, and a record must be made of the endorsement in the records of the State Engineer. The copy of the application so endorsed must be returned to the applicant. Except as otherwise provided in subsection ~~[9,]~~ ~~*[12,]*~~ ***11,*** if the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps

required to apply the water to beneficial use and to perfect the proposed appropriation. If the application is rejected, the applicant may take no steps toward the prosecution of the proposed work or the diversion and use of the public water while the rejection continues in force.

8. ***If:***

(a) The State Engineer receives an application to appropriate any of the public waters, or to change the point of diversion, manner of use or place of use of water already appropriated;

(b) The application involves an amount of water exceeding 250 acre-feet per annum;

(c) The application involves an interbasin transfer of groundwater; and

(d) Within 7 years after the date of last publication of the notice of application, the State Engineer has not granted the application, denied the application, held an administrative hearing on the application or issued a permit in response to the application,

➥ the State Engineer shall notice a new period of 45 days in which a person may file with the State Engineer a written protest against the granting of the application. Such notification must be entered on the Internet website of the State Engineer and must, concurrently with that notification, be mailed to the board of county commissioners of the county of origin.

9. Except as otherwise provided in ~~[subsection 10,]~~ NRS 533.365, a person who wishes to protest an application in accordance with a new period of protest noticed pursuant to subsection 8 shall, within 45 days after the date on which the notification was entered and mailed, file with the State Engineer a written protest that complies with the provisions of this chapter and with the regulations adopted by the State Engineer, including, without limitation, any regulations prescribing the use of particular forms or requiring the payment of certain fees.

10. ~~[If a person is the successor in interest of an owner of a water right, an owner of real property containing a domestic well or an owner of an interest in a domestic well, and if that previous owner had already filed a written protest against the granting of an application to allow an interbasin transfer of groundwater, the successor in interest must be allowed to pursue that protest in the same manner as though he were the previous owner to whose interest he succeeded. If such a successor in interest wishes to protest an application in accordance with a new period of protest noticed pursuant to subsection 8, the successor need not file with the State Engineer a new written protest but must, within 45 days after the date on which the notification was entered and mailed, inform the Office of the State Engineer that he wishes to continue pursuing the protest.~~

~~*11.]*~~ The provisions of subsections 1 to 6, inclusive, do not apply to an application for an environmental permit.

~~[9.]~~ ~~*[12.]*~~ ***11.*** The provisions of subsection 7 do not authorize the recipient of an approved application to use any state land administered by the

Division of State Lands of the State Department of Conservation and Natural Resources without the appropriate authorization for that use from the State Land Registrar.

~~[10.]~~ ~~*[13.]*~~ ***12.*** As used in this section ~~[, "interbasin]~~ ***:***

(a) "County of origin" means the county from which groundwater is transferred or proposed to be transferred.

(b) ~~*["Domestic well" has the meaning ascribed to it in NRS 534.350.*~~

~~*(c)]*~~ ***"Interbasin*** transfer of groundwater" means a transfer of groundwater for which the proposed point of diversion is in a different basin than the proposed place of beneficial use.

Sec. 7. **NRS 533.380 is hereby amended to read as follows:**

533.380 1. Except as otherwise provided in subsection 5, in his endorsement of approval upon any application, the State Engineer shall:

(a) Set a time before which the construction of the work must be completed, which must be within 5 years after the date of approval.

(b) Except as otherwise provided in this paragraph, set a time before which the complete application of water to a beneficial use must be made, which must not exceed 10 years after the date of the approval. The time set under this paragraph respecting an application for a permit to apply water to a municipal or quasi-municipal use on any land:

(1) For which a final subdivision map has been recorded pursuant to chapter 278 of NRS;

(2) For which a plan for the development of a project has been approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(3) On any land for which a plan for the development of a planned unit development has been recorded pursuant to chapter 278A of NRS,

➥ must not be less than 5 years.

2. The State Engineer may limit the applicant to a smaller quantity of water, to a shorter time for the completion of work, and, except as otherwise provided in paragraph (b) of subsection 1, to a shorter time for the perfecting of the application than named in the application.

3. Except as otherwise provided in subsection 4 and NRS 533.395 and 533.4377, the State Engineer may, for good cause shown, ***including, without limitation, a pending judicial proceeding,*** extend the time within which construction work must be completed, or water must be applied to a beneficial use under any permit therefor issued by him, but an application for the extension must in all cases be:

(a) Made within 30 days following notice by registered or certified mail that proof of the work is due as provided for in NRS 533.390 and 533.410; and

(b) Accompanied by proof and evidence of the reasonable diligence with which the applicant is pursuing the perfection of the application.

➥ The State Engineer shall not grant an extension of time unless he determines from the proof and evidence so submitted that the applicant is proceeding in good faith and with reasonable diligence to perfect the

application. The failure to provide the proof and evidence required pursuant to this subsection is prima facie evidence that the holder is not proceeding in good faith and with reasonable diligence to perfect the application.

4. Except as otherwise provided in subsection 5 and NRS 533.395, whenever the holder of a permit issued for any municipal or quasi-municipal use of water on any land referred to in paragraph (b) of subsection 1, or for any use which may be served by a county, city, town, public water district or public water company, requests an extension of time to apply the water to a beneficial use, the State Engineer shall, in determining whether to grant or deny the extension, consider, among other factors:

(a) Whether the holder has shown good cause for not having made a complete application of the water to a beneficial use;

(b) The number of parcels and commercial or residential units which are contained in or planned for the land being developed or the area being served by the county, city, town, public water district or public water company;

(c) Any economic conditions which affect the ability of the holder to make a complete application of the water to a beneficial use;

(d) Any delays in the development of the land or the area being served by the county, city, town, public water district or public water company which were caused by unanticipated natural conditions; and

(e) The period contemplated in the:

(1) Plan for the development of a project approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(2) Plan for the development of a planned unit development recorded pursuant to chapter 278A of NRS,

➥ if any, for completing the development of the land.

5. The provisions of subsections 1 and 4 do not apply to an environmental permit.

6. For the purposes of this section, the measure of reasonable diligence is the steady application of effort to perfect the application in a reasonably expedient and efficient manner under all the facts and circumstances. When a project or integrated system is comprised of several features, work on one feature of the project or system may be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system.

Sec. 8. **The amendatory provisions of subsections 10 and 11 of section 5 and section 6 of this act do not apply to:**

1. An application to appropriate water filed before July 1, 2007;

2. An application to change the place of diversion, manner of use or place of use of appropriated water filed before that date; or

3. A written protest relating to an application specified in subsection 1 or 2.

~~[Sec. 3.]~~ ***Sec. 9.*** This act becomes effective on July 1, 2007.

Assemblywoman Kirkpatrick moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 285.

Remarks by Assemblywoman Kirkpatrick.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 25.

The following Senate amendment was read:

Amendment No. 758.

AN ACT relating to business associations; **requiring certain business associations to maintain certain information concerning their ownership at the registered office or principal place of business; authorizing the Secretary of State to suspend or revoke the right of certain business associations to transact business under certain circumstances;** revising the provisions pertaining to the name of a foreign limited partnership; making various other changes pertaining to business associations; **providing for the licensing and regulation of transfer agents;** providing for the correction of certain records filed with the Office of the Secretary of State; applying prospectively the requirements applicable to certain documents filed with the Office of the Secretary of State that contain certain identifying terms relating to architecture, interior design or residential design; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1, 2, 5-13, 17-29, 31-40 and 56-60 of this bill: (1) require certain business associations to maintain certain information concerning their ownership at the registered office or principal place of business; and (2) authorize the Secretary of State to suspend or revoke the right of such business associations to transact business in this State if they fail to comply with the requirements pertaining to such information.

Section 4 of this bill sets forth the information required to be provided to the district court by an applicant for custodianship of a corporation and the information required to be provided to the Secretary of State by the custodian. (NRS 78.347)

Section ~~[4]~~ **30** of this bill allows a foreign limited partnership to abbreviate its name. (NRS 88.585)

Section 41-51 of this bill provide for the licensing and regulation of transfer agents.

Section ~~[7]~~ **54** of this bill authorizes the Secretary of State to adopt regulations prescribing procedures for correcting certain fraudulent or false records filed with the Office of the Secretary of State.

Section ~~[8]~~ **55** of this bill amends Assembly Bill No. 26 of this session to apply prospectively the provisions of that bill which add requirements applicable to certain documents filed with the Office of the Secretary of State that contain certain identifying terms relating to architecture, interior design or residential design.

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

Section 1. **Chapter 78 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. In addition to any records required to be kept at the registered office pursuant to NRS 78.105, a corporation that is not a publicly traded corporation shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. The corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the corporate charter.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the corporate charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 2. **NRS 78.180 is hereby amended to read as follows:**

78.180 1. Except as otherwise provided in subsections 3 and 4 ~~[,]~~ ***and section 1 of this act,*** the Secretary of State shall reinstate a corporation which has forfeited or which forfeits its right to transact business pursuant to the provisions of this chapter and shall restore to the corporation its right to carry on business in this State, and to exercise its corporate privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 78.150;

(2) The statement required by NRS 78.153, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 78.150 and 78.170 for each year or portion thereof during which it failed to file each required annual list in a timely manner;

(2) The fee set forth in NRS 78.153, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the corporation, he shall issue to the corporation a certificate of reinstatement if the corporation:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to subsection 8 of NRS 78.785.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation of the charter occurred only by reason of failure to pay the fees and penalties.

4. If a corporate charter has been revoked pursuant to the provisions of this chapter and has remained revoked for a period of 5 consecutive years, the charter must not be reinstated.

Sec. 3. **NRS 78.185 is hereby amended to read as follows:**

78.185 1. Except as otherwise provided in subsection 2, if a corporation applies to reinstate or revive its charter but its name has been legally reserved or acquired by another artificial person formed, organized, registered or qualified pursuant to the provisions of this title whose name is on file with the Office of the Secretary of State or reserved in the Office of the Secretary of State pursuant to the provisions of this title, the corporation shall in its application for reinstatement submit in writing to the Secretary of State some other name under which it desires its corporate existence to be reinstated or revived. If that name is distinguishable from all other names reserved or otherwise on file, the Secretary of State shall ~~[reinstatement]~~ ***reinstate*** the corporation under that new name. Upon the issuance of a certificate of reinstatement or revival under that new name, the articles of incorporation of the applying corporation shall be deemed to reflect the new name without the corporation having to comply with the provisions of NRS 78.385, 78.390 or 78.403.

2. If the applying corporation submits the written, acknowledged consent of the artificial person having a name, or the person who has reserved a name, which is not distinguishable from the old name of the applying corporation or a new name it has submitted, it may be reinstated or revived under that name.

3. For the purposes of this section, a proposed name is not distinguishable from a name on file or reserved name solely because one or the other contains distinctive lettering, a distinctive mark, a trademark or a trade name, or any combination of these.

4. The Secretary of State may adopt regulations that interpret the requirements of this section.

Sec. 4. **NRS 78.347 is hereby amended to read as follows:**

78.347 1. Any stockholder may apply to the district court to appoint one or more persons to be custodians of the corporation, and, if the corporation is insolvent, to be receivers of the corporation when:

(a) The business of the corporation is suffering or is threatened with irreparable injury because the directors are so divided respecting the management of the affairs of the corporation that a required vote for action by the board of directors cannot be obtained and the stockholders are unable to terminate this division; or

(b) The corporation has abandoned its business and has failed within a reasonable time to take steps to dissolve, liquidate or distribute its assets in accordance with this chapter.

2. ***An applicant on whose behalf a stockholder has applied to the district court for a custodianship pursuant to subsection 1 shall provide the following information, along with an affidavit attesting that such information is true and correct, to the district court:***

(a) A detailed list of all previous applications to a court in any jurisdiction for a custodianship of a publicly traded corporation that were filed by the applicant or an affiliate or subsidiary of the applicant.

(b) If an application listed in paragraph (a) was approved, a detailed description of the activities performed during the custodianship by the applicant or the affiliate or subsidiary of the applicant.

(c) A description of the current corporate status and business operation of any publicly traded corporation for which the applicant and any affiliate or subsidiary of the applicant has held a custodianship.

(d) A full disclosure of any and all previous criminal, administrative, civil or National Association of Securities Dealers, Inc., or Securities and Exchange Commission investigations, violations or convictions concerning the applicant and any affiliate or subsidiary of the applicant.

(e) Evidence of reasonable efforts by the applicant to contact the officers and directors of the corporation for which the custodianship is sought.

(f) Evidence of a demand by the applicant to the officers and directors of the corporation for which the custodianship is sought that the corporation comply with the provisions of chapter 78 of NRS and that the applicant did not receive a response.

3. The district court shall order any applicant who is granted custodianship pursuant to this section to:

(a) Comply with the provisions of NRS 78.180 or 80.170, as applicable. The custodian shall submit evidence of compliance with this paragraph to the district court.

(b) Provide reasonable notice to all shareholders of record of a shareholder meeting to be held within a reasonable time after an application for custodianship or receivership has been granted. The custodian shall submit evidence of compliance with this paragraph to the district court.

(c) Provide the district court with a report of the actions taken at the shareholder meeting noticed by the custodian.

(d) Provide the district court with periodic reports, at intervals to be determined by the court, of the activities of the custodian and the board of directors and the progress of the corporation.

(e) Provide any other information deemed necessary by the court.

4. Within 10 days after being appointed custodian of a Nevada publicly traded corporation, the custodian shall file with the Secretary of State an amendment to the articles of incorporation containing the following information:

(a) Disclosures of any previous criminal, administrative, civil or National Association of Securities Dealer, Inc., or Securities and Exchange Commission investigations, violations or convictions concerning the custodian and any affiliate of the custodian.

(b) A statement indicating that:

(1) Reasonable attempts were made to contact the officers or directors of the corporation to request that the corporation comply with corporate formalities and to continue its business.

(2) The custodian is in fact continuing the business and attempting to further the interests of the shareholders.

(3) The custodian will reinstate or maintain the corporate charter.

(c) Any other information required by regulation to be submitted to the Secretary of State.

5. The Secretary of State may adopt regulations to administer the provisions of subsection 4.

6. A custodian appointed pursuant to this section has all the powers and title of a trustee appointed under NRS 78.590, 78.635 and 78.650, but the authority of the custodian is to continue the business of the corporation and not to liquidate its affairs or distribute its assets, except when the district court so orders and except in cases arising pursuant to paragraph (b) of subsection 1.

Sec. 5. **NRS 78.730 is hereby amended to read as follows:**

78.730 1. ~~[Any]~~ ***Except as otherwise provided in section 1 of this act, any*** corporation which did exist or is existing under the laws of this State may, upon complying with the provisions of NRS 78.180, procure a renewal or revival of its charter for any period, together with all the rights, franchises, privileges and immunities, and subject to all its existing and preexisting debts, duties and liabilities secured or imposed by its original charter and amendments thereto, or existing charter, by filing:

(a) A certificate with the Secretary of State, which must set forth:

(1) The name of the corporation, which must be the name of the corporation at the time of the renewal or revival, or its name at the time its original charter expired.

(2) The name of the person designated as the resident agent of the corporation, his street address for the service of process, and his mailing address if different from his street address.

(3) The date when the renewal or revival of the charter is to commence or be effective, which may be, in cases of a revival, before the date of the certificate.

(4) Whether or not the renewal or revival is to be perpetual, and, if not perpetual, the time for which the renewal or revival is to continue.

(5) That the corporation desiring to renew or revive its charter is, or has been, organized and carrying on the business authorized by its existing or original charter and amendments thereto, and desires to renew or continue through revival its existence pursuant to and subject to the provisions of this chapter.

(b) A list of its president, secretary and treasurer, or the equivalent thereof, and all of its directors and their addresses, either residence or business.

2. A corporation whose charter has not expired and is being renewed shall cause the certificate to be signed by an officer of the corporation. The certificate must be approved by a majority of the voting power of the shares.

3. A corporation seeking to revive its original or amended charter shall cause the certificate to be signed by a person or persons designated or appointed by the stockholders of the corporation. The signing and filing of the certificate must be approved by the written consent of stockholders of the corporation holding at least a majority of the voting power and must contain a recital that this consent was secured. If no stock has been issued, the certificate must contain a statement of that fact, and a majority of the directors then in office may designate the person to sign the certificate. The corporation shall pay to the Secretary of State the fee required to establish a new corporation pursuant to the provisions of this chapter.

4. The filed certificate, or a copy thereof which has been certified under the hand and seal of the Secretary of State, must be received in all courts and places as prima facie evidence of the facts therein stated and of the existence and incorporation of the corporation therein named.

Sec. 6. **Chapter 80 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A foreign corporation that is not a publicly traded corporation shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. The foreign corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign corporation to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign corporation to transact business that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign corporation to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 7. **NRS 80.170 is hereby amended to read as follows:**

80.170 1. Except as otherwise provided in subsections 3 and 4 ~~[,]~~ ***or section 6 of this act,*** the Secretary of State shall reinstate a corporation which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the corporation its right to transact business in this State, and to exercise its corporate privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list as provided in NRS 80.110 and 80.140;

(2) The statement required by NRS 80.115, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 80.110 and 80.150 for each year or portion thereof that its right to transact business was forfeited;

(2) The fee set forth in NRS 80.115, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the corporation, he shall issue to the corporation a certificate of reinstatement if the corporation:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to subsection 8 of NRS 78.785.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a corporation to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right is not subject to reinstatement.

Sec. 8. **Chapter 82 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A corporation shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. The corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the corporation to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a corporation to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the corporation to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 9. **NRS 82.5237 is hereby amended to read as follows:**

82.5237 1. Except as otherwise provided in subsections 3 and 4 ~~[,]~~ ***and section 8 of this act,*** the Secretary of State shall reinstate a foreign nonprofit corporation which has forfeited or which forfeits its right to transact business pursuant to the provisions of NRS 82.523 to 82.5239, inclusive, and restore

to the foreign nonprofit corporation its right to transact business in this State, and to exercise its corporate privileges and immunities, if it:

(a) Files with the Secretary of State a list as provided in NRS 82.523; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 82.523 and 82.5235 for each year or portion thereof that its right to transact business was forfeited; and

(2) A fee of $100 for reinstatement.

2. When the Secretary of State reinstates the foreign nonprofit corporation, he shall issue to the foreign nonprofit corporation a certificate of reinstatement if the foreign nonprofit corporation:

(a) Requests a certificate of reinstatement; and

(b) Pays the fees as provided in subsection 8 of NRS 78.785.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign nonprofit corporation to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right to transact business must not be reinstated.

Sec. 10. **NRS 82.546 is hereby amended to read as follows:**

82.546 1. ~~[Any]~~ ***Except as otherwise provided in section 8 of this act, any*** corporation which did exist or is existing pursuant to the laws of this State may, upon complying with the provisions of NRS 78.150 and 82.193, procure a renewal or revival of its charter for any period, together with all the rights, franchises, privileges and immunities, and subject to all its existing and preexisting debts, duties and liabilities secured or imposed by its original charter and amendments thereto, or its existing charter, by filing:

(a) A certificate with the Secretary of State, which must set forth:

(1) The name of the corporation, which must be the name of the corporation at the time of the renewal or revival, or its name at the time its original charter expired.

(2) The name and street address of the lawfully designated resident agent of the filing corporation, and his mailing address if different from his street address.

(3) The date when the renewal or revival of the charter is to commence or be effective, which may be, in cases of a revival, before the date of the certificate.

(4) Whether or not the renewal or revival is to be perpetual, and, if not perpetual, the time for which the renewal or revival is to continue.

(5) That the corporation desiring to renew or revive its charter is, or has been, organized and carrying on the business authorized by its existing or original charter and amendments thereto, and desires to renew or continue

through revival its existence pursuant to and subject to the provisions of this chapter.

(b) A list of its president, secretary and treasurer and all of its directors and their mailing or street addresses, either residence or business.

2. A corporation whose charter has not expired and is being renewed shall cause the certificate to be signed by an officer of the corporation. The certificate must be approved by a majority of the last-appointed surviving directors.

3. A corporation seeking to revive its original or amended charter shall cause the certificate to be signed by its president or vice president and secretary or assistant secretary. The signing and filing of the certificate must be approved unanimously by the last-appointed surviving directors of the corporation and must contain a recital that unanimous consent was secured. The corporation shall pay to the Secretary of State the fee required to establish a new corporation pursuant to the provisions of this chapter.

4. The filed certificate, or a copy thereof which has been certified under the hand and seal of the Secretary of State, must be received in all courts and places as prima facie evidence of the facts therein stated and of the existence and incorporation of the corporation named therein.

Sec. 11. **Chapter 86 of NRS is hereby amended by adding thereto the provisions set forth as sections 12 and 13 of this act.**

Sec. 12. ***1. In addition to any records required to be kept pursuant to NRS 86.241, a limited-liability company shall maintain at its registered office or principal place of business in this State:***

(a) A current list of each member and manager; or

(b) A statement indicating where such a list is maintained.

2. A limited-liability company shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited-liability company to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited-liability company fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the charter of the limited-liability company.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited-liability company complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 13. 1. A foreign limited-liability company shall maintain at its registered office or principal place of business in this State:

(a) A current list of each member and manager; or

(b) A statement indicating where such a list is maintained.

2. The foreign limited-liability company shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited-liability company to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited-liability company fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the registration of the foreign limited-liability company.

5. The Secretary of State shall not reinstate or revive a registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign limited-liability company complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

~~[Section 1.]~~ ***Sec. 14.*** NRS 86.263 is hereby amended to read as follows:

86.263 1. A limited-liability company shall, on or before the last day of the first month after the filing of its articles of organization with the Secretary of State, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited-liability company;

(b) The file number of the limited-liability company, if known;

(c) The names and titles of all of its managers or, if there is no manager, all of its managing members;

(d) The address, either residence or business, of each manager or managing member listed, following the name of the manager or managing member;

(e) The name and street address of its lawfully designated resident agent in this State; and

(f) The signature of a manager or managing member of the limited-liability company certifying that the list is true, complete and accurate.

2. The limited-liability company shall ~~[annually]~~ thereafter, on or before the last day of the month in which the anniversary date of its organization occurs, file with the Secretary of State, on a form furnished by him, an ~~[amended]~~ ***annual*** list containing all of the information required in subsection 1.

3. Each list required by subsections 1 and 2 must be accompanied by a declaration under penalty of perjury that the limited-liability company:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

4. Upon filing:

(a) The initial list required by subsection 1, the limited-liability company shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 2, the limited-liability company shall pay to the Secretary of State a fee of $125.

5. If a manager or managing member of a limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of $75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each list required by subsection 2, cause to be mailed to each limited-liability company which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due under subsection 4 and a reminder to file a list required by subsection 2. Failure of any company to receive a notice or form does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a limited-liability company not in default received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

~~[Sec. 2.]~~ ***Sec. 15.*** (Deleted by amendment.)

~~[Sec. 3.]~~ ***Sec. 16.*** (Deleted by amendment.)

Sec. 17. **NRS 86.276 is hereby amended to read as follows:**

86.276 1. Except as otherwise provided in subsections 3 and 4 ~~[,]~~ ***and section 12 of this act,*** the Secretary of State shall reinstate any limited-liability company which has forfeited or which forfeits its right to transact business pursuant to the provisions of this chapter and shall restore to the company its right to carry on business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 86.263;

(2) The statement required by NRS 86.264, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 86.263 and 86.272 for each year or portion thereof during which it failed to file in a timely manner each required annual list;

(2) The fee set forth in NRS 86.264, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the limited-liability company, he shall issue to the company a certificate of reinstatement if the limited-liability company:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 86.561.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation of the charter occurred only by reason of failure to pay the fees and penalties.

4. If a company's charter has been revoked pursuant to the provisions of this chapter and has remained revoked for a period of 5 consecutive years, the charter must not be reinstated.

~~*Sec.*~~ ***18.*** **NRS 86.5467 is hereby amended to read as follows:**

86.5467 1. Except as otherwise provided in subsections 3 and 4 ~~[,]~~ ***and section 13 of this act,*** the Secretary of State shall reinstate a foreign limited-liability company which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign limited-liability company its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 86.5461;

(2) The statement required by NRS 86.5462, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 86.5461 and 86.5465 for each year or portion thereof that its right to transact business was forfeited;

(2) The fee set forth in NRS 86.5462, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the foreign limited-liability company, he shall issue to the foreign limited-liability company a certificate of reinstatement if the foreign limited-liability company:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 86.561.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign limited-liability company to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right must not be reinstated.

Sec. 19. **NRS 86.580 is hereby amended to read as follows:**

86.580 1. ~~[A]~~ ***Except as otherwise provided in section 12 of this act, a*** limited-liability company which did exist or is existing pursuant to the laws of this State may, upon complying with the provisions of NRS 86.276, procure a renewal or revival of its charter for any period, together with all the rights, franchises, privileges and immunities, and subject to all its existing and preexisting debts, duties and liabilities secured or imposed by its original charter and amendments thereto, or existing charter, by filing:

(a) A certificate with the Secretary of State, which must set forth:

(1) The name of the limited-liability company, which must be the name of the limited-liability company at the time of the renewal or revival, or its name at the time its original charter expired.

(2) The name of the person lawfully designated as the resident agent of the limited-liability company, his street address for the service of process, and his mailing address if different from his street address.

(3) The date when the renewal or revival of the charter is to commence or be effective, which may be, in cases of a revival, before the date of the certificate.

(4) Whether or not the renewal or revival is to be perpetual, and, if not perpetual, the time for which the renewal or revival is to continue.

(5) That the limited-liability company desiring to renew or revive its charter is, or has been, organized and carrying on the business authorized by its existing or original charter and amendments thereto, and desires to renew or continue through revival its existence pursuant to and subject to the provisions of this chapter.

(b) A list of its managers, or if there are no managers, all its managing members and their mailing or street addresses, either residence or business.

2. A limited-liability company whose charter has not expired and is being renewed shall cause the certificate to be signed by its manager, or if there is no manager, by a person designated by its members. The certificate must be approved by a majority in interest.

3. A limited-liability company seeking to revive its original or amended charter shall cause the certificate to be signed by a person or persons designated or appointed by the members. The signing and filing of the certificate must be approved by the written consent of a majority in interest and must contain a recital that this consent was secured. The limited-liability company shall pay to the Secretary of State the fee required to establish a new limited-liability company pursuant to the provisions of this chapter.

4. The filed certificate, or a copy thereof which has been certified under the hand and seal of the Secretary of State, must be received in all courts and places as prima facie evidence of the facts therein stated and of the existence of the limited-liability company therein named.

Sec. 20. **Chapter 87 of NRS is hereby amended by adding thereto the provisions set forth as sections 21 and 22 of this act.**

Sec. 21. ***1. A registered limited-liability partnership shall maintain at its registered office or principal place of business in this State:***

(a) A current list of its managing partners; or

(b) A statement indicating where such a list is maintained.

2. The registered limited-liability partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 22. 1. A foreign registered limited-liability partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of its managing partners; or

(b) A statement indicating where such a list is maintained.

2. The foreign registered limited-liability partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign registered limited-liability partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign registered limited-liability partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign registered limited-liability partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign registered limited-liability partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign registered limited-liability partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 23. **NRS 87.530 is hereby amended to read as follows:**

87.530 1. Except as otherwise provided in subsection 3 ~~[,]~~ ***and section 21 of this act,*** the Secretary of State shall reinstate the certificate of registration of a registered limited-liability partnership that is revoked pursuant to NRS 87.520 if the registered limited-liability partnership:

(a) Files with the Secretary of State:

(1) The information required by NRS 87.510; and

(2) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The fee required to be paid pursuant to NRS 87.510;

(2) Any penalty required to be paid pursuant to NRS 87.520; and

(3) A reinstatement fee of $300.

2. When the Secretary of State reinstates the registered limited-liability partnership, he shall issue to the registered limited-liability partnership a certificate of reinstatement if the registered limited-liability partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 87.550.

3. The Secretary of State shall not reinstate the certificate of registration of a registered limited-liability partnership if the certificate was revoked pursuant to the provisions of this chapter at least 5 years before the date of the proposed reinstatement.

Sec. 24. **NRS 87.5435 is hereby amended to read as follows:**

87.5435 1. Except as otherwise provided in subsections 3 and 4 ~~[,]~~ ***and section 22 of this act,*** the Secretary of State shall reinstate a foreign registered limited-liability partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign registered limited-liability partnership its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 87.541; and

(2) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 87.541 and 87.5425 for each year or portion thereof that its right to transact business was forfeited; and

(2) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the foreign registered limited-liability partnership, he shall issue to the foreign registered limited-liability partnership a certificate of reinstatement if the foreign registered limited-liability partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 87.550.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign registered limited-liability partnership to transact business in this State has been forfeited pursuant to the provisions of

this chapter and has remained forfeited for a period of 5 consecutive years, the right to transact business must not be reinstated.

Sec. 25. **Chapter 88 of NRS is hereby amended by adding thereto the provisions set forth as sections 26, 27 and 28 of this act.**

Sec. 26. ***1. A limited partnership shall maintain at its registered office or principal place of business in this State:***

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. The limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 27. ***1. A foreign limited partnership shall maintain at its registered office or principal place of business in this State:***

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. The foreign limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The

information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate authorizing the foreign limited partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive a certificate authorizing a foreign limited partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate authorizing the foreign limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 28. 1. A registered limited-liability limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. The registered limited-liability limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 29. **NRS 88.410 is hereby amended to read as follows:**

88.410 1. Except as otherwise provided in subsections 3 and 4 ~~[,]~~ ***and section 26 of this act,*** the Secretary of State shall reinstate any limited partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and restore to the limited partnership its right to carry on business in this State, and to exercise its privileges and immunities if it:

(a) Files with the Secretary of State:

(1) The list required pursuant to NRS 88.395;

(2) The statement required by NRS 88.397, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 88.395 and 88.400 for each year or portion thereof during which the certificate has been revoked;

(2) The fee set forth in NRS 88.397, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the limited partnership, he shall issue to the limited partnership a certificate of reinstatement if the limited partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 88.415.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation occurred only by reason of failure to pay the fees and penalties.

4. If a limited partnership's certificate has been revoked pursuant to the provisions of this chapter and has remained revoked for a period of 5 years, the certificate must not be reinstated.

~~[Sec. 4.]~~ ***Sec. 30.*** NRS 88.585 is hereby amended to read as follows:

88.585 Except as otherwise provided in NRS 88.609, a foreign limited partnership may register with the Secretary of State under any name, whether or not it is the name under which it is registered in its state of organization, that ~~[includes without abbreviation]~~ ***contains*** the words "limited partnership" ***or the abbreviation "LP" or "L.P."*** and that could be registered by a domestic limited partnership.

Sec. 31. **NRS 88.594 is hereby amended to read as follows:**

88.594 1. Except as otherwise provided in subsections 3 and 4 ~~[,]~~ ***and section 27 of this act,*** the Secretary of State shall reinstate a foreign limited partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign limited partnership its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 88.591;

(2) The statement required by NRS 88.5915, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 88.591 and 88.593 for each year or portion thereof that its right to transact business was forfeited;

(2) The fee set forth in NRS 88.5915, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the foreign limited partnership, he shall issue to the foreign limited partnership a certificate of reinstatement if the foreign limited partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 88.415.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign limited partnership to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right is not subject to reinstatement.

Sec. 32. **Chapter 88A of NRS is hereby amended by adding thereto the provisions set forth as sections 33 and 34 of this act.**

Sec. 33. ***1. A business trust shall:***

(a) Provide the Secretary of State with the name and contact information of the custodian of the ledger, duplicate ledger or statement described in subsection 1 of NRS 88A.340. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the ledger, duplicate ledger or statement described in subsection 1 of NRS 88A.340.

2. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a business trust to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the ledger, duplicate ledger or statement required to be maintained pursuant to subsection 1 of NRS 88A.340; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

3. If a business trust fails to comply with any requirement pursuant to subsection 2, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of trust.

4. The Secretary of State shall not reinstate or revive a certificate of trust that was revoked or suspended pursuant to subsection 3 unless:

(a) The business trust complies with the requirements of subsection 2; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the business trust.

5. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 34. 1. A foreign business trust shall maintain at its registered office:

(a) A current list of its beneficial owners; or

(b) A statement indicating where such a list is maintained.

2. The foreign business trust shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign business trust to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign business trust fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign business trust to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign business trust to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign business trust complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign business trust to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 35. **NRS 88A.650 is hereby amended to read as follows:**

88A.650 1. Except as otherwise provided in subsections 3 and 4 ~~[,]~~ ***and section 33 of this act,*** the Secretary of State shall reinstate a business trust which has forfeited or which forfeits its right to transact business pursuant to the provisions of this chapter and shall restore to the business trust its right to carry on business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 88A.600; and

(2) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 88A.600 and 88A.630 for each year or portion thereof during which its certificate of trust was revoked; and

(2) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the business trust, he shall issue to the business trust a certificate of reinstatement if the business trust:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 88A.900.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation of the certificate of trust occurred only by reason of the failure to file the list or pay the fees and penalties.

4. If a certificate of business trust has been revoked pursuant to the provisions of this chapter and has remained revoked for a period of 5 consecutive years, the certificate must not be reinstated.

Sec. 36. **NRS 88A.737 is hereby amended to read as follows:**

88A.737 1. Except as otherwise provided in subsections 3 and 4 ~~[,]~~ ***and section 34 of this act,*** the Secretary of State shall reinstate a foreign business trust which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign business trust its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 88A.732; and

(2) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 88A.732 and 88A.735 for each year or portion thereof that its right to transact business was forfeited; and

(2) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the foreign business trust, he shall issue to the foreign business trust a certificate of reinstatement if the foreign business trust:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 88A.900.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign business trust to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right to transact business must not be reinstated.

Sec. 37. **Chapter 89 of NRS is hereby amended by adding thereto the provisions set forth as sections 38 and 39 of this act.**

Sec. 38. ***1. A professional corporation shall maintain at its registered office or principal place of business in this State:***

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. The professional corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a professional corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a professional corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action

necessary, including, without limitation, the suspension or revocation of the corporate charter.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The professional corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the corporate charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 39. 1. A professional association shall maintain at its registered office or principal place of business in this State:

(a) A current list of each member; or

(b) A statement indicating where such a list is maintained.

2. The professional association shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a professional association to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a professional association fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the articles of association.

5. The Secretary of State shall not reinstate or revive articles of association that were revoked or suspended pursuant to subsection 4 unless:

(a) The professional association complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the articles of association.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 40. **NRS 89.256 is hereby amended to read as follows:**

89.256 1. Except as otherwise provided in subsections 3 and 4 ~~[,]~~ ***and section 39 of this act,*** the Secretary of State shall reinstate any professional

association which has forfeited its right to transact business under the provisions of this chapter and restore the right to carry on business in this State and exercise its privileges and immunities if it:

(a) Files with the Secretary of State:

(1) The list and certification required by NRS 89.250; and

(2) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 89.250 and 89.252 for each year or portion thereof during which the articles of association have been revoked; and

(2) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the professional association, he shall issue to the professional association a certificate of reinstatement if the professional association:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to subsection 8 of NRS 78.785.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation of the articles of association occurred only by reason of the failure to pay the fees and penalties.

4. If the articles of association of a professional association have been revoked pursuant to the provisions of this chapter and have remained revoked for 10 consecutive years, the articles must not be reinstated.

Sec. 41. **Chapter 90 of NRS is hereby amended by adding thereto a new section to read as follows:**

"Transfer agent" means any person who, for a fee, performs the service of registering the transfer of securities that do not trade on the New York Stock Exchange or the American Stock Exchange or in the over-the-counter market, if the price quotations for the over-the-counter stock are quoted by the National Association of Securities Dealers Automated Quotations System (NASDAQ).

Sec. 42. **NRS 90.211 is hereby amended to read as follows:**

90.211 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 90.215 to 90.305, inclusive, ***and section 41 of this act*** have the meanings ascribed to them in those sections.

Sec. 43. **NRS 90.310 is hereby amended to read as follows:**

90.310 1. It is unlawful for any person to transact business in this State as a broker-dealer or sales representative unless licensed or exempt from licensing under this chapter.

2. It is unlawful for any issuer or any broker-dealer licensed under this chapter to employ or contract with a person as a sales representative within this State unless the sales representative is licensed or exempt from licensing under this chapter.

3. ***It is unlawful for any person to transact business in this State as a transfer agent unless licensed or exempt from licensing under this chapter.***

4. It is unlawful for a broker-dealer or an issuer engaged in offering securities in this State to employ or contract with, in connection with any of the broker-dealer's or issuer's activities in this State, any person who is suspended or barred from association with a broker-dealer or investment adviser by the Administrator. A broker-dealer or issuer does not violate this subsection unless he knows or in the exercise of reasonable care should know of the suspension or bar. Upon request from a broker-dealer or issuer, and for good cause shown, the Administrator by order may waive the prohibition of this subsection with respect to a particular person who has been suspended or barred.

~~[4.]~~ ***5.*** It is unlawful for any person licensed pursuant to this chapter to share, divide or apportion fees with a person who is effecting or attempting to effect purchases or sales of securities and is not licensed pursuant to the provisions of this chapter.

Sec. 44. **NRS 90.350 is hereby amended to read as follows:**

90.350 1. ~~[An]~~ ***Except as otherwise provided in subsection 3, an*** applicant for licensing as a broker-dealer, sales representative, investment adviser **,** ~~[or]~~ representative of an investment adviser ***or transfer agent*** must file with the Administrator an application for licensing and a consent to service of process pursuant to NRS 90.770 and pay the fee required by NRS 90.360. The application for licensing must contain the social security number of the applicant and any other information the Administrator determines by regulation to be necessary and appropriate to facilitate the administration of this chapter.

2. The requirements of subsection 1 are satisfied by an applicant who has filed and maintains a completed and current registration with the Securities and Exchange Commission or a self-regulatory organization if the information contained in that registration is readily available to the Administrator through the Central Registration Depository or another depository for registrations that has been approved by the Administrator by regulation or order. ~~[Such]~~ ***Except as otherwise provided in subsection 3, such*** an applicant must also file a notice with the Administrator in the form and content determined by the Administrator by regulation and a consent to service of process pursuant to NRS 90.770 and the fee required by NRS 90.360. The Administrator, by order, may require the submission of additional information by an applicant.

3. ***An applicant for licensing as a transfer agent is not required to pay the fee required by NRS 90.360.***

4. As used in this section, "Central Registration Depository" means the Central Registration Depository of the National Association of Securities Dealers, Inc., or its successor, and the North American Securities Administrators Association or its successor.

Sec. 45. **NRS 90.350 is hereby amended to read as follows:**

90.350 1. ~~[An]~~ ***Except as otherwise provided in subsection 3, an*** applicant for licensing as a broker-dealer, sales representative, investment adviser **,** ~~[or]~~ representative of an investment adviser ***or transfer agent*** must file with the Administrator an application for licensing and a consent to service of process pursuant to NRS 90.770 and pay the fee required by NRS 90.360. The application for licensing must contain the information the Administrator determines by regulation to be necessary and appropriate to facilitate the administration of this chapter.

2. The requirements of subsection 1 are satisfied by an applicant who has filed and maintains a completed and current registration with the Securities and Exchange Commission or a self-regulatory organization if the information contained in that registration is readily available to the Administrator through the Central Registration Depository or another depository for registrations that has been approved by the Administrator by regulation or order. ~~[Such]~~ ***Except as otherwise provided in subsection 3, such*** an applicant must also file a notice with the Administrator in the form and content determined by the Administrator by regulation and a consent to service of process pursuant to NRS 90.770 and the fee required by NRS 90.360. The Administrator, by order, may require the submission of additional information by an applicant.

3. ***An applicant for licensing as a transfer agent is not required to pay the fee required by NRS 90.360.***

4. As used in this section, "Central Registration Depository" means the Central Registration Depository of the National Association of Securities Dealers, Inc., or its successor, and the North American Securities Administrators Association or its successor.

Sec. 46. **NRS 90.375 is hereby amended to read as follows:**

90.375 1. An applicant for the issuance or renewal of a license as a broker-dealer, sales representative, investment adviser **,** ~~[or]~~ representative of an investment adviser ***or transfer agent*** shall submit to the Administrator 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 Administrator 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 Administrator.

3. A license as a broker-dealer, sales representative, investment adviser **,** ~~[or]~~ representative of an investment adviser ***or transfer agent*** may not be issued or renewed by the Administrator 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 Administrator shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 47. **NRS 90.380 is hereby amended to read as follows:**

90.380 1. Unless a proceeding under NRS 90.420 has been instituted, the license of any broker-dealer, sales representative, investment adviser or representative of an investment adviser becomes effective 30 days after an application for licensing has been filed and is complete, including any amendment, if all requirements imposed pursuant to NRS 90.370 and 90.375 have been satisfied. An application or amendment is complete when the applicant has furnished information responsive to each applicable item of the application. The Administrator may authorize an earlier effective date of licensing.

2. The license of a broker-dealer, sales representative, investment adviser **,** ~~[or]~~ representative of an investment adviser ***or transfer agent*** is effective until terminated by revocation, suspension, expiration or withdrawal.

3. The license of a sales representative is only effective with respect to transactions effected on behalf of the broker-dealer or issuer for whom the sales representative is licensed.

4. A person shall not at any one time act as a sales representative for more than one broker-dealer or for more than one issuer, unless the Administrator by regulation or order authorizes multiple licenses.

5. If a person licensed as a sales representative terminates association with a broker-dealer or issuer or ceases to be a sales representative, the sales representative and the broker-dealer or issuer on whose behalf the sales representative was acting shall promptly notify the Administrator.

6. The Administrator by regulation may authorize one or more special classifications of licenses as a broker-dealer, sales representative, investment adviser **,** ~~[or]~~ representative of an investment adviser ***or transfer agent*** to be issued to applicants subject to limitations and conditions on the nature of the activities that may be conducted by persons so licensed.

7. The license of a broker-dealer, sales representative, investment adviser **,** ~~[or]~~ representative of an investment adviser ***or transfer agent*** expires if:

(a) The statement required pursuant to NRS 90.375 is not submitted when it is due; or

(b) ~~[The]~~ ***Any*** annual fee required by NRS 90.360 is not paid when it is due.

8. A license that has expired may be reinstated retroactively if the licensed person:

(a) Submits the statement required pursuant to NRS 90.375; and

(b) Pays ~~[the]~~ ***any*** fee required by NRS 90.360, plus a fee for reinstatement in the amount of $50,

➥ within 30 days after the date of expiration. If the license is not reinstated within that time, it shall be deemed to have lapsed as of the date of expiration, and the licensed person must thereafter submit a new application for licensing if he desires to be relicensed.

Sec. 48. **NRS 90.380 is hereby amended to read as follows:**

90.380 1. Unless a proceeding under NRS 90.420 has been instituted, the license of any broker-dealer, sales representative, investment adviser or representative of an investment adviser becomes effective 30 days after an application for licensing has been filed and is complete, including any amendment, if all requirements imposed pursuant to NRS 90.370 have been satisfied. An application or amendment is complete when the applicant has furnished information responsive to each applicable item of the application. The Administrator may authorize an earlier effective date of licensing.

2. The license of a broker-dealer, sales representative, investment adviser ***,*** ~~[or]~~ representative of an investment adviser ***or transfer agent*** is effective until terminated by revocation, suspension, expiration or withdrawal.

3. The license of a sales representative is only effective with respect to transactions effected on behalf of the broker-dealer or issuer for whom the sales representative is licensed.

4. A person shall not at any one time act as a sales representative for more than one broker-dealer or for more than one issuer, unless the Administrator by regulation or order authorizes multiple licenses.

5. If a person licensed as a sales representative terminates association with a broker-dealer or issuer or ceases to be a sales representative, the sales representative and the broker-dealer or issuer on whose behalf the sales representative was acting shall promptly notify the Administrator.

6. The Administrator by regulation may authorize one or more special classifications of licenses as a broker-dealer, sales representative, investment adviser ***,*** ~~[or]~~ representative of an investment adviser ***or transfer agent*** to be issued to applicants subject to limitations and conditions on the nature of the activities that may be conducted by persons so licensed.

7. The license of a broker-dealer, sales representative, investment adviser ***,*** ~~[or]~~ representative of an investment adviser ***or transfer agent*** expires if ~~[the]~~ ***any*** annual fee required by NRS 90.360 is not paid when it is due.

8. A license that has expired may be reinstated retroactively if the licensed person pays ~~[the]~~ ***any*** fee required by NRS 90.360, plus a fee for reinstatement in the amount of $50, within 30 days after the date of expiration. If the license is not reinstated within that time, it shall be deemed to have lapsed as of the date of expiration, and the licensed person must thereafter submit a new application for licensing if he desires to be relicensed.

Sec. 49. **NRS 90.410 is hereby amended to read as follows:**

90.410 1. The Administrator, without previous notice, may examine in a manner reasonable under the circumstances the records, within or without this State, of a licensed broker-dealer, sales representative, investment adviser or representative of an investment adviser ~~[,]~~ ***or any person issuing securities who would otherwise be required to be licensed pursuant to NRS 90.310 upon authorization by the Attorney General or his designee,*** in order to determine compliance with this chapter. Broker-dealers, sales representatives, investment advisers and representatives of investment advisers shall make their records available to the Administrator in legible form.

2. ~~[The]~~ ***Except as otherwise provided in subsection 3, the*** Administrator may copy records or require a licensed person to copy records and provide the copies to the Administrator to the extent and in a manner reasonable under the circumstances.

3. ***The Administrator may inspect and copy records or require a transfer agent to copy records and provide the copies to the Administrator to the extent such records relate to information concerning principals, corporate officers or stockholders of any publicly traded company based in this State.***

4. The Administrator by regulation may impose a reasonable fee for the expense of conducting an examination under this section.

Sec. 50. **NRS 90.420 is hereby amended to read as follows:**

90.420 1. The Administrator by order may deny, suspend or revoke any license, fine any licensed person, limit the activities governed by this chapter that an applicant or licensed person may perform in this State, bar an applicant or licensed person from association with a licensed broker-dealer or investment adviser or bar from employment with a licensed broker-dealer or investment adviser a person who is a partner, officer, director, sales representative, investment adviser or representative of an investment adviser, or a person occupying a similar status or performing a similar function for an applicant or licensed person, if the Administrator finds that the order is in the public interest and that the applicant or licensed person or, in the case of a broker-dealer or investment adviser, any partner, officer, director, sales representative, investment adviser, representative of an investment adviser, or person occupying a similar status or performing similar functions or any person directly or indirectly controlling the broker-dealer or investment adviser ~~[.]~~ ***, or any transfer agent or any person directly or indirectly controlling the transfer agent:***

(a) Has filed an application for licensing with the Administrator which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in a material respect or contained a statement that was, in light of the circumstances under which it was made, false or misleading with respect to a material fact;

(b) Has violated or failed to comply with a provision of this chapter as now or formerly in effect or a regulation or order adopted or issued under this chapter;

(c) Is the subject of an adjudication or determination after notice and opportunity for hearing, within the last 5 years by a securities agency or administrator of another state or a court of competent jurisdiction that the person has violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act or the securities law of any other state, but only if the acts constituting the violation of that state's law would constitute a violation of this chapter had the acts taken place in this State;

(d) Within the last 10 years has been convicted of a felony or misdemeanor which the Administrator finds:

(1) Involves the purchase or sale of a security, taking a false oath, making a false report, bribery, perjury, burglary, robbery or conspiracy to commit any of the foregoing offenses;

(2) Arises out of the conduct of business as a broker-dealer, investment adviser, depository institution, insurance company or fiduciary; or

(3) Involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion or misappropriation of money or securities or conspiracy to commit any of the foregoing offenses;

(e) Is or has been permanently or temporarily enjoined by any court of competent jurisdiction, unless the order has been vacated, from acting as an investment adviser, representative of an investment adviser, underwriter, broker-dealer or as an affiliated person or employee of an investment company, depository institution or insurance company or from engaging in or continuing any conduct or practice in connection with any of the foregoing activities or in connection with the purchase or sale of a security;

(f) Is or has been the subject of an order of the Administrator, unless the order has been vacated, denying, suspending or revoking his license as a broker-dealer, sales representative, investment adviser ***,*** ~~[or]~~ representative of an investment adviser ~~[,]~~ ***or transfer agent;***

(g) Is or has been the subject of any of the following orders which were issued within the last 5 years, unless the order has been vacated:

(1) An order by the securities agency or administrator of another state, Canadian province or territory or by the Securities and Exchange Commission or a comparable regulatory agency of another country, entered after notice and opportunity for hearing, denying, suspending or revoking the person's license as a broker-dealer, sales representative, investment adviser ***,*** ~~[or]~~ representative of an investment adviser ~~[,]~~ ***or transfer agent;***

(2) A suspension or expulsion from membership in or association with a member of a self-regulatory organization;

(3) An order of the United States Postal Service relating to fraud;

(4) An order to cease and desist entered after notice and opportunity for hearing by the Administrator, the securities agency or administrator of another state, Canadian province or territory, the Securities and Exchange Commission or a comparable regulatory agency of another country, or the Commodity Futures Trading Commission; or

(5) An order by the Commodity Futures Trading Commission denying, suspending or revoking registration under the Commodity Exchange Act;

(h) Has engaged in unethical or dishonest practices in the securities business;

(i) Is insolvent, either in the sense that liabilities exceed assets or in the sense that obligations cannot be met as they mature, but the Administrator may not enter an order against a broker-dealer or investment adviser under this paragraph without a finding of insolvency as to the broker-dealer or investment adviser;

(j) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;

(k) Is determined by the Administrator in compliance with NRS 90.430 not to be qualified on the basis of lack of training, experience and knowledge of the securities business; or

(l) Has failed reasonably to supervise a sales representative, employee or representative of an investment adviser.

2. The Administrator may not institute a proceeding on the basis of a fact or transaction known to the director when the license became effective unless the proceeding is instituted within 90 days after issuance of the license.

3. If the Administrator finds that an applicant or licensed person is no longer in existence or has ceased to do business as a broker-dealer, sales representative, investment adviser **,** ~~[or]~~ representative of an investment adviser ***or transfer agent*** or is adjudicated mentally incompetent or subjected to the control of a committee, conservator or guardian or cannot be located after reasonable search, the Administrator may by order deny the application or revoke the license.

Sec. 51. **NRS 90.435 is hereby amended to read as follows:**

90.435 1. If the Administrator 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 broker-dealer, sales representative, investment adviser **,** ~~[or]~~ representative of an investment adviser **,** ~~[,]~~ ***or transfer agent,*** the Administrator 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 Administrator 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 Administrator shall reinstate a license as a broker-dealer, sales representative, investment adviser **,** ~~[or]~~ representative of an investment

adviser ***or transfer agent*** that has been suspended by a district court pursuant to NRS 425.540 if the Administrator 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. 5.]~~ ***Sec. 52.*** NRS 92A.205 is hereby amended to read as follows:

92A.205 1. After a plan of conversion is approved as required by this chapter, if the resulting entity is a domestic entity, the constituent entity shall deliver to the Secretary of State for filing:

(a) Articles of conversion setting forth:

(1) The name and jurisdiction of organization of the constituent entity and the resulting entity; and

(2) That a plan of conversion has been adopted by the constituent entity in compliance with the law of the jurisdiction governing the constituent entity.

(b) The charter document of the domestic resulting entity required by the applicable provisions of chapter 78, 78A, ~~[82,]~~ 86, 88, 88A or 89 of NRS.

(c) A certificate of acceptance of appointment of a resident agent for the resulting entity which is signed by the resident agent.

2. After a plan of conversion is approved as required by this chapter, if the resulting entity is a foreign entity, the constituent entity shall deliver to the Secretary of State for filing articles of conversion setting forth:

(a) The name and jurisdiction of organization of the constituent entity and the resulting entity;

(b) That a plan of conversion has been adopted by the constituent entity in compliance with the laws of this State; and

(c) The address of the resulting entity where copies of process may be sent by the Secretary of State.

3. If the entire plan of conversion is not set forth in the articles of conversion, the filing party must include in the articles of conversion a statement that the complete signed plan of conversion is on file at the registered office or principal place of business of the resulting entity or, if the resulting entity is a domestic limited partnership, the office described in paragraph (a) of subsection 1 of NRS 88.330.

4. If the conversion takes effect on a later date specified in the articles of conversion pursuant to NRS 92A.240, the charter document to be filed with the Secretary of State pursuant to paragraph (b) of subsection 1 must state the name and the jurisdiction of the constituent entity and that the existence of the resulting entity does not begin until the later date.

5. Any records filed with the Secretary of State pursuant to this section must be accompanied by the fees required pursuant to this title for filing the charter document.

~~[Sec. 6.]~~ ***Sec. 53.*** (Deleted by amendment.)

~~[Sec. 7.]~~ ***Sec. 54.*** NRS 225.084 is hereby amended to read as follows:

225.084 1. A person shall not willfully file, promote the filing of, or cause to be filed, or attempt or conspire to file, promote the filing of, or cause to be filed, any record in the Office of the Secretary of State if the person has actual knowledge that the record:

(a) Is forged or fraudulently altered;

(b) Contains a false statement of material fact; or

(c) Is being filed in bad faith or for the purpose of harassing or defrauding any person.

2. Any person who violates this section is liable in a civil action brought pursuant to this section for:

(a) Actual damages caused by each separate violation of this section, or $10,000 for each separate violation of this section, whichever is greater;

(b) All costs of bringing and maintaining the action, including investigative expenses and fees for expert witnesses;

(c) Reasonable attorney's fees; and

(d) Any punitive damages that the facts may warrant.

3. A civil action may be brought pursuant to this section by:

(a) Any person who is damaged by a violation of this section, including, without limitation, any person who is damaged as the result of an action taken in reliance on a record filed in violation of this section; or

(b) The Attorney General, in the name of the State of Nevada, if the matter is referred to the Attorney General by the Secretary of State and if the Attorney General, after due inquiry, determines that a civil action should be brought pursuant to this section. Any money recovered by the Attorney General pursuant to this paragraph, after deducting all costs and expenses incurred by the Attorney General and the Secretary of State to investigate and act upon the violation, must be deposited in the State General Fund.

4. For the purposes of this section, each filing of a single record that constitutes a violation of this section shall be deemed to be a separate violation.

5. The rights, remedies and penalties provided pursuant to this section are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity, including, without limitation, any criminal penalty that may be imposed pursuant to NRS 239.330.

6. ***The Secretary of State may adopt regulations prescribing procedures for correcting any record filed in violation of this section.***

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

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

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

~~[Sec. 8.]~~ ***Sec. 55.*** Assembly Bill No. 26 of this session is hereby amended by adding thereto a new section to be designated as sec. 6.5, following sec. 6, to read as follows:

Sec. 6.5. The amendatory provisions of this act do not apply to a:

1. Corporation that files its articles of incorporation with the Secretary of State;

2. Foreign corporation that files the records required pursuant to subsection 1 of NRS 80.010 or NRS 80.110 with the Secretary of State;

3. Nonprofit corporation that files its articles of incorporation with the Secretary of State;

4. Limited-liability company that files its articles of organization with the Secretary of State;

5. Registered limited-liability partnership that files its certificate of registration with the Secretary of State; or

6. Limited partnership that files its certificate of limited partnership with the Secretary of State,

➥ before the effective date of this act.

Sec. 56. **Senate Bill No. 72 of this session is hereby amended by adding thereto a new section to be designated as sec. 40.5, immediately following sec. 40, to read as follows:**

Sec. 40.5. 1. A limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. The limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 57. **Section 62 of Senate Bill No. 72 of this session is hereby amended to read as follows:**

Sec. 62. ***1. Except as otherwise provided in subsections 3 and 4 and section 40.5 of this act, the Secretary of State shall reinstate any limited partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and restore to the limited partnership its right to carry on business in this State, and to exercise its privileges and immunities if it:***

(a) Files with the Secretary of State:

(1) The list required pursuant to section 58 of this act;

(2) The statement required by section 59 of this act, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in sections 58 and 60 of this act for each year or portion thereof during which the certificate has been revoked;

(2) The fee set forth in section 59 of this act, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the limited partnership, he shall issue to the limited partnership a certificate of reinstatement if the limited partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to section 63 of this act.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation occurred only by reason of failure to pay the fees and penalties.

4. If a limited partnership's certificate has been revoked pursuant to the provisions of this chapter and has remained revoked for a period of 5 years, the certificate must not be reinstated.

5. If a limited partnership's certificate is reinstated pursuant to this section, the reinstatement relates back to and takes effect on the effective date of the revocation, and the limited partnership's status as a limited partnership continues as if the revocation had never occurred.

Sec. 58. **Senate Bill No. 72 of this session is hereby amended by adding thereto a new section to be designated as sec. 115.5, immediately following sec. 115, to read as follows:**

Sec. 115.5. 1. A foreign limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. The foreign limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate authorizing the foreign limited partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive a certificate authorizing a foreign limited partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate authorizing the foreign limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 59. **Section 118 of Senate Bill No. 72 of this session is hereby amended to read as follows:**

Sec. 118. ***1. Except as otherwise provided in subsections 3 and 4 and section 115.5 of this act, the Secretary of State shall reinstate a foreign limited partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign limited partnership its right to transact business in this State, and to exercise its privileges and immunities, if it:***

(a) Files with the Secretary of State:

(1) The list required by section 112 of this act;

(2) The statement required by section 113 of this act, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in sections 112 and 116 of this act for each year or portion thereof that its right to transact business was forfeited;

(2) The fee set forth in section 113 of this act, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the foreign limited partnership, he shall issue to the foreign limited partnership a certificate of reinstatement if the foreign limited partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to section 63 of this act.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign limited partnership to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right is not subject to reinstatement.

5. If the right of a foreign limited partnership to transact business in this State is reinstated pursuant to this section, the reinstatement relates back to and takes effect on the effective date of the revocation, and the foreign limited partnership's status as a foreign limited partnership continues as if the revocation had never occurred.

Sec. 60. **Senate Bill No. 72 of this session is hereby amended by adding thereto a new section to be designated as sec. 126.5, immediately following sec. 126, to read as follows:**

Sec. 126.5. 1. A registered limited-liability limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. The registered limited-liability limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

~~[Sec. 9.]~~ ***Sec. 61.*** 1. This section and ~~[section 8]~~ **sections 55 to 60, inclusive,** of this act become effective upon passage and approval.

2. Sections 1 to ~~[7,]~~ **44,** inclusive, **46, 47 and 49 to 54, inclusive,** of this act become effective on October 1, 2007.

3. Sections 44, 46, 47 and 51 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.

4. Sections 45 and 48 of this act become 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 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 Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 25.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 87.

The following Senate amendment was read:

Amendment No. 761.

AN ACT relating to financial institutions; requiring certain financial institutions to provide training to certain officers and employees concerning identifying the suspected exploitation of older persons and vulnerable persons; requiring certain officers and employees who receive such training to report the suspected or known exploitation of an older or vulnerable person; providing for civil penalties for failure to report; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 4-13 of this bill require certain financial institutions to provide training to certain officers and employees concerning the identification and reporting of the exploitation of older persons and vulnerable persons. "Older persons" are defined in existing law as persons who are 60 years of age or older. (NRS 200.5092) "Vulnerable persons" are defined in existing law as persons who are 18 years of age or older who: (1) suffer from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness; or (2) have one or more physical or mental limitations that restrict the ability of the person to perform the normal activities of daily living. (NRS 200.5092) Section 10 of this bill specifies which officers and employees must receive the training, when the training must be provided and the content of the training. Section 10 further requires those officers and employees to report incidents that reasonably appear to be exploitation of an older or vulnerable person. Section 11 of this bill requires each financial institution to designate a person to whom such reports must be made. The person so designated is then responsible for determining when a formal report must be reported to ~~[a law enforcement]~~ **the appropriate** agency. Section 12 of this bill provides for a civil penalty when an employee, officer or designated reporter who has received training fails to report an incident.

Sections 15-23 of this bill add similar provisions to the chapter governing savings and loan associations. (Chapter 673 of NRS) Sections 25-33 of this bill add similar provisions to the chapter governing thrift companies. (Chapter 677 of NRS) Sections 35-43 of this bill add similar provisions to the chapter governing credit unions. (Chapter 678 of NRS)

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. Chapter 657 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 12, inclusive, of this act.

Sec. 4. ***As used in sections 4 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 5 to 9, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 5. ***"Designated reporter" means a person designated by a financial institution to receive reports of known or suspected exploitation of an older person or vulnerable person pursuant to section 11 of this act.***

Sec. 6. ***"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.***

Sec. 7. ***"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.***

Sec. 8. ***"Reasonable cause to believe" has the meaning ascribed to it in NRS 200.50925.***

Sec. 9. ***"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.***

Sec. 10. ***1. Each financial institution shall provide training concerning the identification and reporting of the suspected exploitation of an older person or vulnerable person to each officer and employee of the financial institution who:***

(a) May, as part of his regular duties for the financial institution, come into direct contact with an older person or vulnerable person; or

(b) May review or approve the financial documents, records or transactions of an older person or vulnerable person in connection with providing financial services to the older person or vulnerable person.

2. The training required pursuant to subsection 1 must be provided as soon as reasonably practicable, but not later than 6 months after the officer or employee is employed by the financial institution.

3. The training required pursuant to subsection 1 must include, without limitation:

(a) An explanation of the conduct which constitutes exploitation of an older person or vulnerable person;

(b) The manner in which exploitation of an older person or vulnerable person may be recognized;

(c) Information concerning the manner in which reports of exploitation are investigated; and

(d) Instruction concerning when and how to report known or suspected exploitation of an older person or vulnerable person.

4. An officer or employee who has observed or has knowledge of an incident that is directly related to a transaction or matter which is within his scope of practice and which reasonably appears to be exploitation of an older person or vulnerable person shall report the known or suspected exploitation to the designated reporter.

Sec. 11. ***1. Each financial institution shall designate a person or persons to whom an officer or employee of the financial institution must***

report known or suspected exploitation of an older person or vulnerable person.

2. If an officer or employee reports known or suspected exploitation of an older person ~~[or vulnerable person]~~ to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that an older person ~~[or vulnerable person]~~ has been exploited, the designated reporter shall :

(a) Except as otherwise provided in subsection 3, report the known or suspected exploitation ~~[in the same manner as a person required to make a report pursuant to NRS 200.5093 or 200.50935, as applicable.]~~ 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.

3. If the designated reporter knows or has reasonable cause to believe that the exploitation 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 designated reporter shall make the report to an agency other than the one alleged to have committed the act or omission.

4. If an officer or employee reports known or suspected exploitation of a vulnerable person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that a vulnerable person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 5, report the known or suspected exploitation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable.

5. If the designated reporter knows or has reasonable cause to believe that the exploitation of the vulnerable person involves an act or omission of a law enforcement agency, the designated reporter shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

6. In accordance with the provisions of subsection 3 of NRS 239A.070, in making a report pursuant to this section, a designated reporter may:

(a) Disclose any facts or information that form the basis of the determination that the designated reporter knows or has reasonable cause to believe that an older person or vulnerable person has been exploited,

including, without limitation, the identity of any person believed to be involved in the exploitation of the older person or vulnerable person; and

(b) Provide any financial records or other documentation relating to the exploitation of the older person or vulnerable person.

7. An officer, employee and the designated reporter are entitled to the immunity from liability set forth in NRS 200.5096 for making a report in good faith.

Sec. 12. ***1. If an employee or officer who has received the training required pursuant to section 10 of this act fails to report the suspected or known exploitation of an older person or vulnerable person to a designated reporter or if a designated reporter fails to make a report pursuant to section 11 of this act, the financial institution that employs the employee, officer or designated reporter is subject to a civil penalty in an amount:***

(a) Not to exceed $1,000, if the failure to report was not willful; or

(b) Not to exceed $5,000, if the failure to report was willful.

2. A civil penalty pursuant to this section may be recovered only in a civil action brought in the name of the State of Nevada by the Attorney General or by a district attorney in a court of competent jurisdiction.

3. The provisions of this section do not limit or prohibit any other action and are in addition to any other remedy that may be available by law.

Sec. 13. NRS 657.150 is hereby amended to read as follows:

657.150 As used in NRS 657.150 to 657.210, inclusive, ***and sections 4 to 12, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 657.160 and 657.170 have the meanings ascribed to them in those sections.

Sec. 14. Chapter 673 of NRS is hereby amended by adding thereto the provisions set forth as sections 15 to 23, inclusive, of this act.

Sec. 15. ***As used in sections 15 to 23, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 16 to 20, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 16. ***"Designated reporter" means a person designated by an association to receive reports of known or suspected exploitation of an older person or vulnerable person pursuant to section 22 of this act.***

Sec. 17. ***"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.***

Sec. 18. ***"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.***

Sec. 19. ***"Reasonable cause to believe" has the meaning ascribed to it in NRS 200.50925.***

Sec. 20. ***"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.***

Sec. 21. ***1. Each association shall provide training concerning the identification and reporting of the suspected exploitation of an older***

person or vulnerable person to each director, officer and employee of the association who:

(a) May, as part of his regular duties for the association, come into direct contact with an older person or vulnerable person; or

(b) May review or approve the financial documents, records or transactions of an older person or vulnerable person in connection with providing financial services to the older person or vulnerable person.

2. The training required pursuant to subsection 1 must be provided as soon as reasonably practicable, but not later than 6 months after the director, officer or employee is employed by the association or assumes the position.

3. The training required pursuant to subsection 1 must include, without limitation:

(a) An explanation of the conduct which constitutes exploitation of an older person or vulnerable person;

(b) The manner in which exploitation of an older person or vulnerable person may be recognized;

(c) Information concerning the manner in which reports of exploitation are investigated; and

(d) Instruction concerning when and how to report known or suspected exploitation of an older person or vulnerable person.

4. A director, officer or employee who has observed or has knowledge of an incident that is directly related to a transaction or matter which is within his scope of practice and which reasonably appears to be exploitation of an older person or vulnerable person shall report the known or suspected exploitation to the designated reporter.

Sec. 22. ***1. Each association shall designate a person or persons to whom a director, officer or employee of the association must report known or suspected exploitation of an older person or vulnerable person.***

2. If a director, officer or employee reports known or suspected exploitation of an older person ~~*[or vulnerable person]*~~ ***to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that an older person*** ~~*[or vulnerable person]*~~ ***has been exploited, the designated reporter shall :***

(a) Except as otherwise provided in subsection 3, report the known or suspected exploitation ~~*[in the same manner as a person required to make a report pursuant to NRS 200.5093 or 200.50935, as applicable.]*~~ ***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.

3. If the designated reporter knows or has reasonable cause to believe that the exploitation 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 designated reporter shall make the report to an agency other than the one alleged to have committed the act or omission.

4. If a director, officer or employee reports known or suspected exploitation of a vulnerable person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that a vulnerable person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 5, report the known or suspected exploitation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable.

5. If the designated reporter knows or has reasonable cause to believe that the exploitation of the vulnerable person involves an act or omission of a law enforcement agency, the designated reporter shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

6. In accordance with the provisions of subsection 3 of NRS 239A.070, in making a report pursuant to this section, a designated reporter may:

(a) Disclose any facts or information that form the basis of the determination that the designated reporter knows or has reasonable cause to believe that an older person or vulnerable person has been exploited, including, without limitation, the identity of any person believed to be involved in the exploitation of the older person or vulnerable person; and

(b) Provide any financial records or other documentation relating to the exploitation of the older person or vulnerable person.

7. A director, officer, employee and the designated reporter are entitled to the immunity from liability set forth in NRS 200.5096 for making a report in good faith.

Sec. 23. ***1. If a director, officer or employee who has received the training required pursuant to section 21 of this act fails to report the suspected or known exploitation of an older person or vulnerable person to a designated reporter or if a designated reporter fails to make a report pursuant to section 22 of this act, the association for which the director, officer or employee or designated reporter works is subject to a civil penalty in an amount:***

(a) Not to exceed $1,000, if the failure to report was not willful; or

(b) Not to exceed $5,000, if the failure to report was willful.

2. A civil penalty pursuant to this section may be recovered only in a civil action brought in the name of the State of Nevada by the Attorney General or by a district attorney in a court of competent jurisdiction.

3. The provisions of this section do not limit or prohibit any other action and are in addition to any other remedy that may be available by law.

Sec. 24. Chapter 677 of NRS is hereby amended by adding thereto the provisions set forth as sections 25 to 33, inclusive, of this act.

Sec. 25. ***As used in sections 25 to 33, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 26 to 30, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 26. ***"Designated reporter" means a person designated by a licensee to receive reports of known or suspected exploitation of an older person or vulnerable person pursuant to section 32 of this act.***

Sec. 27. ***"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.***

Sec. 28. ***"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.***

Sec. 29. ***"Reasonable cause to believe" has the meaning ascribed to it in NRS 200.50925.***

Sec. 30. ***"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.***

Sec. 31. ***1. Each licensee shall provide training concerning the identification and reporting of the suspected exploitation of an older person or vulnerable person to each officer and employee of the licensee who:***

(a) May, as part of his regular duties for the licensee, come into direct contact with an older person or vulnerable person; or

(b) May review or approve the financial documents, records or transactions of an older person or vulnerable person in connection with providing financial services to the older person or vulnerable person.

2. The training required pursuant to subsection 1 must be provided as soon as reasonably practicable, but not later than 6 months after the officer or employee is employed by the licensee.

3. The training required pursuant to subsection 1 must include, without limitation:

(a) An explanation of the conduct which constitutes exploitation of an older person or vulnerable person;

(b) The manner in which exploitation of an older person or vulnerable person may be recognized;

(c) Information concerning the manner in which reports of exploitation are investigated; and

(d) Instruction concerning when and how to report known or suspected exploitation of an older person or vulnerable person.

4. An officer or employee who has observed or has knowledge of an incident that is directly related to a transaction or matter which is within his scope of practice and which reasonably appears to be exploitation of an older person or vulnerable person shall report the known or suspected exploitation to the designated reporter.

Sec. 32. ***1. Each licensee shall designate a person or persons to whom an officer or employee of the licensee must report known or suspected exploitation of an older person or vulnerable person.***

2. If an officer or employee reports known or suspected exploitation of an older person ~~[or vulnerable person]~~ to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that an older person ~~[or vulnerable person]~~ has been exploited, the designated reporter shall :

(a) Except as otherwise provided in subsection 3, report the known or suspected exploitation ~~[in the same manner as a person required to make a report pursuant to NRS 200.5093 or 200.50935, as applicable.]~~ 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.

3. If the designated reporter knows or has reasonable cause to believe that the exploitation 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 designated reporter shall make the report to an agency other than the one alleged to have committed the act or omission.

4. If an officer or employee reports known or suspected exploitation of a vulnerable person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that a vulnerable person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 5, report the known or suspected exploitation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable.

5. If the designated reporter knows or has reasonable cause to believe that the exploitation of the vulnerable person involves an act or omission of a law enforcement agency, the designated reporter shall make the report to

a law enforcement agency other than the one alleged to have committed the act or omission.

6. In accordance with the provisions of subsection 3 of NRS 239A.070, in making a report pursuant to this section, a designated reporter may:

(a) Disclose any facts or information that form the basis of the determination that the designated reporter knows or has reasonable cause to believe that an older person or vulnerable person has been exploited, including, without limitation, the identity of any person believed to be involved in the exploitation of the older person or vulnerable person; and

(b) Provide any financial records or other documentation relating to the exploitation of the older person or vulnerable person.

7. An officer, employee and the designated reporter are entitled to the immunity from liability set forth in NRS 200.5096 for making a report in good faith.

Sec. 33. ***1. If an employee or officer who has received the training required pursuant to section 31 of this act fails to report the suspected or known exploitation of an older person or vulnerable person to a designated reporter or if a designated reporter fails to make a report pursuant to section 32 of this act, the licensee that employs the employee, officer or designated reporter is subject to a civil penalty in an amount:***

(a) Not to exceed $1,000, if the failure to report was not willful; or

(b) Not to exceed $5,000, if the failure to report was willful.

2. A civil penalty pursuant to this section may be recovered only in a civil action brought in the name of the State of Nevada by the Attorney General or by a district attorney in a court of competent jurisdiction.

3. The provisions of this section do not limit or prohibit any other action and are in addition to any other remedy that may be available by law.

Sec. 34. Chapter 678 of NRS is hereby amended by adding thereto the provisions set forth as sections 35 to 43, inclusive, of this act.

Sec. 35. ***As used in sections 35 to 43, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 36 to 40, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 36. ***"Designated reporter" means a person designated by a credit union to receive reports of known or suspected exploitation of an older person or vulnerable person pursuant to section 42 of this act.***

Sec. 37. ***"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.***

Sec. 38. ***"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.***

Sec. 39. ***"Reasonable cause to believe" has the meaning ascribed to it in NRS 200.50925.***

Sec. 40. ***"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.***

Sec. 41. ***1. Each credit union shall provide training concerning the identification and reporting of the suspected exploitation of an older person or vulnerable person to each*** ~~*[loan officer and]*~~ ***employee of the credit union who:***

(a) May, as part of his regular duties for the credit union, come into direct contact with an older person or vulnerable person; or

(b) May review or approve the financial documents, records or transactions of an older person or vulnerable person in connection with providing financial services to the older person or vulnerable person.

2. The training required pursuant to subsection 1 must be provided as soon as reasonably practicable, but not later than 6 months after the ~~*[loan officer or]*~~ ***employee is employed by the credit union.***

3. The training required pursuant to subsection 1 must include, without limitation:

(a) An explanation of the conduct which constitutes exploitation of an older person or vulnerable person;

(b) The manner in which exploitation of an older person or vulnerable person may be recognized;

(c) Information concerning the manner in which reports of exploitation are investigated; and

(d) Instruction concerning when and how to report known or suspected exploitation of an older person or vulnerable person.

4. ~~*[A loan officer or]*~~ ***An employee who has observed or has knowledge of an incident that is directly related to a transaction or matter which is within his scope of practice and which reasonably appears to be exploitation of an older person or vulnerable person shall report the known or suspected exploitation to the designated reporter.***

Sec. 42. ***1. Each credit union shall designate a person or persons to whom*** ~~*[a loan officer or]*~~ ***an employee of the credit union must report known or suspected exploitation of an older person or vulnerable person.***

2. If ~~*[a loan officer or]*~~ ***an employee reports known or suspected exploitation of an older person*** ~~*[or vulnerable person]*~~ ***to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that an older person*** ~~*[or vulnerable person]*~~ ***has been exploited, the designated reporter shall :***

(a) Except as otherwise provided in subsection 3, report the known or suspected exploitation ~~*[in the same manner as a person required to make a report pursuant to NRS 200.5093 or 200.50935, as applicable. A loan officer,]*~~ ***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.

3. If the designated reporter knows or has reasonable cause to believe that the exploitation 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 designated reporter shall make the report to an agency other than the one alleged to have committed the act or omission.

4. If an employee reports known or suspected exploitation of a vulnerable person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that a vulnerable person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 5, report the known or suspected exploitation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable.

5. If the designated reporter knows or has reasonable cause to believe that the exploitation of the vulnerable person involves an act or omission of a law enforcement agency, the designated reporter shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

6. In accordance with the provisions of subsection 3 of NRS 239A.070, in making a report pursuant to this section, a designated reporter may:

(a) Disclose any facts or information that form the basis of the determination that the designated reporter knows or has reasonable cause to believe that an older person or vulnerable person has been exploited, including, without limitation, the identity of any person believed to be involved in the exploitation of the older person or vulnerable person; and

(b) Provide any financial records or other documentation relating to the exploitation of the older person or vulnerable person.

7. An employee and the designated reporter are entitled to the immunity from liability set forth in NRS 200.5096 for making a report in good faith.

Sec. 43. ***1. If*** ~~*[a loan officer or]*~~ ***an employee who has received the training required pursuant to section 41 of this act fails to report the suspected or known exploitation of an older person or vulnerable person to a designated reporter or if a designated reporter fails to make a report pursuant to section 42 of this act, the credit union that employs the*** ~~*[loan officer,]*~~ ***employee or designated reporter shall be subject to a civil penalty in an amount:***

(a) Not to exceed $1,000, if the failure to report was not willful; or

(b) Not to exceed $5,000, if the failure to report was willful.

2. A civil penalty pursuant to this section may be recovered only in a civil action brought in the name of the State of Nevada by the Attorney General or by a district attorney in a court of competent jurisdiction.

3. The provisions of this section do not limit or prohibit any other action and are in addition to any other remedy that may be available by law.

Assemblyman Anderson moved that the Assembly concur in the Senate Amendment No. 761 to Assembly Bill No. 87.

Remarks by Assemblyman Anderson.

Motion carried.

The following Senate amendment was read:

Amendment No. 968.

AN ACT relating to financial institutions; requiring certain financial institutions to provide training to certain officers and employees concerning identifying the suspected exploitation of older persons and vulnerable persons; requiring certain officers and employees who receive such training to report the suspected or known exploitation of an older or vulnerable person; ~~[providing for civil penalties for failure to report;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 4-13 of this bill require certain financial institutions to provide training to certain officers and employees concerning the identification and reporting of the exploitation of older persons and vulnerable persons. "Older persons" are defined in existing law as persons who are 60 years of age or older. (NRS 200.5092) "Vulnerable persons" are defined in existing law as persons who are 18 years of age or older who: (1) suffer from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness; or (2) have one or more physical or mental limitations that restrict the ability of the person to perform the normal activities of daily living. (NRS 200.5092) Section 10 of this bill specifies which officers and employees must receive the training, when the training must be provided and the content of the training. Section 10 further requires those officers and employees to report incidents that reasonably appear to be exploitation of an older or vulnerable person. Section 11 of this bill requires each financial institution to designate a person to whom such reports must be made. The person so designated is then responsible for determining when a formal report must be reported to the appropriate agency. ~~[Section 12 of this bill provides for a civil penalty when an employee, officer or designated reporter who has received training fails to report an incident.]~~

Sections ~~[15-23]~~ **15-22** of this bill add similar provisions to the chapter governing savings and loan associations. (Chapter 673 of NRS) Sections ~~[25-33]~~ **25-32** of this bill add similar provisions to the chapter governing thrift companies. (Chapter 677 of NRS) Sections ~~[35-43]~~ **35-42** of this bill add similar provisions to the chapter governing credit unions. (Chapter 678 of NRS)

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. Chapter 657 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 12, inclusive, of this act.

Sec. 4. ***As used in sections 4 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 5 to 9, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 5. ***"Designated reporter" means a person designated by a financial institution to receive reports of known or suspected exploitation of an older person or vulnerable person pursuant to section 11 of this act.***

Sec. 6. ***"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.***

Sec. 7. ***"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.***

Sec. 8. ***"Reasonable cause to believe" has the meaning ascribed to it in NRS 200.50925.***

Sec. 9. ***"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.***

Sec. 10. ***1. Each financial institution shall provide training concerning the identification and reporting of the suspected exploitation of an older person or vulnerable person to each officer and employee of the financial institution who:***

(a) May, as part of his regular duties for the financial institution, come into direct contact with an older person or vulnerable person; or

(b) May review or approve the financial documents, records or transactions of an older person or vulnerable person in connection with providing financial services to the older person or vulnerable person.

2. The training required pursuant to subsection 1 must be provided as soon as reasonably practicable, but not later than 6 months after the officer or employee is employed by the financial institution.

3. The training required pursuant to subsection 1 must include, without limitation:

(a) An explanation of the conduct which constitutes exploitation of an older person or vulnerable person;

(b) The manner in which exploitation of an older person or vulnerable person may be recognized;

(c) Information concerning the manner in which reports of exploitation are investigated; and

(d) Instruction concerning when and how to report known or suspected exploitation of an older person or vulnerable person.

4. An officer or employee who has observed or has knowledge of an incident that is directly related to a transaction or matter which is within

his scope of practice and which reasonably appears to be exploitation of an older person or vulnerable person shall report the known or suspected exploitation to the designated reporter.

Sec. 11. ***1. Each financial institution shall designate a person or persons to whom an officer or employee of the financial institution must report known or suspected exploitation of an older person or vulnerable person.***

2. If an officer or employee reports known or suspected exploitation of an older person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that an older person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 3, report the known or suspected exploitation 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.

3. If the designated reporter knows or has reasonable cause to believe that the exploitation 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 designated reporter shall make the report to an agency other than the one alleged to have committed the act or omission.

4. If an officer or employee reports known or suspected exploitation of a vulnerable person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that a vulnerable person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 5, report the known or suspected exploitation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable.

5. If the designated reporter knows or has reasonable cause to believe that the exploitation of the vulnerable person involves an act or omission of a law enforcement agency, the designated reporter shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

6. In accordance with the provisions of subsection 3 of NRS 239A.070, in making a report pursuant to this section, a designated reporter may:

(a) Disclose any facts or information that form the basis of the determination that the designated reporter knows or has reasonable cause to believe that an older person or vulnerable person has been exploited, including, without limitation, the identity of any person believed to be involved in the exploitation of the older person or vulnerable person; and

(b) Provide any financial records or other documentation relating to the exploitation of the older person or vulnerable person.

7. An officer, employee and the designated reporter are entitled to the immunity from liability set forth in NRS 200.5096 for making a report in good faith.

Sec. 12. ~~*[1. If an employee or officer who has received the training required pursuant to section 10 of this act fails to report the suspected or known exploitation of an older person or vulnerable person to a designated reporter or if a designated reporter fails to make a report pursuant to section 11 of this act, the financial institution that employs the employee, officer or designated reporter is subject to a civil penalty in an amount:*~~

~~*(a) Not to exceed $1,000, if the failure to report was not willful; or*~~

~~*(b) Not to exceed $5,000, if the failure to report was willful.*~~

~~*2. A civil penalty pursuant to this section may be recovered only in a civil action brought in the name of the State of Nevada by the Attorney General or by a district attorney in a court of competent jurisdiction.*~~

~~*3. The provisions of this section do not limit or prohibit any other action and are in addition to any other remedy that may be available by law.]*~~

(Deleted by amendment.)

Sec. 13. NRS 657.150 is hereby amended to read as follows:

657.150 As used in NRS 657.150 to 657.210, inclusive, ***and sections 4 to 12, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 657.160 and 657.170 have the meanings ascribed to them in those sections.

Sec. 14. Chapter 673 of NRS is hereby amended by adding thereto the provisions set forth as sections 15 to 23, inclusive, of this act.

Sec. 15. ***As used in sections 15 to 23, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 16 to 20, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 16. ***"Designated reporter" means a person designated by an association to receive reports of known or suspected exploitation of an older person or vulnerable person pursuant to section 22 of this act.***

Sec. 17. ***"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.***

Sec. 18. ***"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.***

Sec. 19. ***"Reasonable cause to believe" has the meaning ascribed to it in NRS 200.50925.***

Sec. 20. ***"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.***

Sec. 21. ***1. Each association shall provide training concerning the identification and reporting of the suspected exploitation of an older person or vulnerable person to each director, officer and employee of the association who:***

(a) May, as part of his regular duties for the association, come into direct contact with an older person or vulnerable person; or

(b) May review or approve the financial documents, records or transactions of an older person or vulnerable person in connection with providing financial services to the older person or vulnerable person.

2. The training required pursuant to subsection 1 must be provided as soon as reasonably practicable, but not later than 6 months after the director, officer or employee is employed by the association or assumes the position.

3. The training required pursuant to subsection 1 must include, without limitation:

(a) An explanation of the conduct which constitutes exploitation of an older person or vulnerable person;

(b) The manner in which exploitation of an older person or vulnerable person may be recognized;

(c) Information concerning the manner in which reports of exploitation are investigated; and

(d) Instruction concerning when and how to report known or suspected exploitation of an older person or vulnerable person.

4. A director, officer or employee who has observed or has knowledge of an incident that is directly related to a transaction or matter which is within his scope of practice and which reasonably appears to be exploitation of an older person or vulnerable person shall report the known or suspected exploitation to the designated reporter.

Sec. 22. ***1. Each association shall designate a person or persons to whom a director, officer or employee of the association must report known or suspected exploitation of an older person or vulnerable person.***

2. If a director, officer or employee reports known or suspected exploitation of an older person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that an older person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 3, report the known or suspected exploitation 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.

3. If the designated reporter knows or has reasonable cause to believe that the exploitation 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 designated reporter shall make the report to an agency other than the one alleged to have committed the act or omission.

4. If a director, officer or employee reports known or suspected exploitation of a vulnerable person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that a vulnerable person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 5, report the known or suspected exploitation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable.

5. If the designated reporter knows or has reasonable cause to believe that the exploitation of the vulnerable person involves an act or omission of a law enforcement agency, the designated reporter shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

6. In accordance with the provisions of subsection 3 of NRS 239A.070, in making a report pursuant to this section, a designated reporter may:

(a) Disclose any facts or information that form the basis of the determination that the designated reporter knows or has reasonable cause to believe that an older person or vulnerable person has been exploited, including, without limitation, the identity of any person believed to be involved in the exploitation of the older person or vulnerable person; and

(b) Provide any financial records or other documentation relating to the exploitation of the older person or vulnerable person.

7. A director, officer, employee and the designated reporter are entitled to the immunity from liability set forth in NRS 200.5096 for making a report in good faith.

Sec. 23. ~~*[1. If a director, officer or employee who has received the training required pursuant to section 21 of this act fails to report the suspected or known exploitation of an older person or vulnerable person to a designated reporter or if a designated reporter fails to make a report pursuant to section 22 of this act, the association for which the director, officer or employee or designated reporter works is subject to a civil penalty in an amount:*~~

~~*(a) Not to exceed $1,000, if the failure to report was not willful; or*~~

~~*(b) Not to exceed $5,000, if the failure to report was willful.*~~

~~*2. A civil penalty pursuant to this section may be recovered only in a civil action brought in the name of the State of Nevada by the Attorney General or by a district attorney in a court of competent jurisdiction.*~~

~~*3. The provisions of this section do not limit or prohibit any other action and are in addition to any other remedy that may be available by law.]*~~

(Deleted by amendment.)

Sec. 24. Chapter 677 of NRS is hereby amended by adding thereto the provisions set forth as sections 25 to 33, inclusive, of this act.

Sec. 25. ***As used in sections 25 to 33, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 26 to 30, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 26. ***"Designated reporter" means a person designated by a licensee to receive reports of known or suspected exploitation of an older person or vulnerable person pursuant to section 32 of this act.***

Sec. 27. ***"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.***

Sec. 28. ***"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.***

Sec. 29. ***"Reasonable cause to believe" has the meaning ascribed to it in NRS 200.50925.***

Sec. 30. ***"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.***

Sec. 31. ***1. Each licensee shall provide training concerning the identification and reporting of the suspected exploitation of an older person or vulnerable person to each officer and employee of the licensee who:***

(a) May, as part of his regular duties for the licensee, come into direct contact with an older person or vulnerable person; or

(b) May review or approve the financial documents, records or transactions of an older person or vulnerable person in connection with providing financial services to the older person or vulnerable person.

2. The training required pursuant to subsection 1 must be provided as soon as reasonably practicable, but not later than 6 months after the officer or employee is employed by the licensee.

3. The training required pursuant to subsection 1 must include, without limitation:

(a) An explanation of the conduct which constitutes exploitation of an older person or vulnerable person;

(b) The manner in which exploitation of an older person or vulnerable person may be recognized;

(c) Information concerning the manner in which reports of exploitation are investigated; and

(d) Instruction concerning when and how to report known or suspected exploitation of an older person or vulnerable person.

4. An officer or employee who has observed or has knowledge of an incident that is directly related to a transaction or matter which is within his scope of practice and which reasonably appears to be exploitation of an older person or vulnerable person shall report the known or suspected exploitation to the designated reporter.

Sec. 32. ***1. Each licensee shall designate a person or persons to whom an officer or employee of the licensee must report known or suspected exploitation of an older person or vulnerable person.***

2. If an officer or employee reports known or suspected exploitation of an older person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that an older person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 3, report the known or suspected exploitation 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.

3. If the designated reporter knows or has reasonable cause to believe that the exploitation 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 designated reporter shall make the report to an agency other than the one alleged to have committed the act or omission.

4. If an officer or employee reports known or suspected exploitation of a vulnerable person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that a vulnerable person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 5, report the known or suspected exploitation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable.

5. If the designated reporter knows or has reasonable cause to believe that the exploitation of the vulnerable person involves an act or omission of a law enforcement agency, the designated reporter shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

6. In accordance with the provisions of subsection 3 of NRS 239A.070, in making a report pursuant to this section, a designated reporter may:

(a) Disclose any facts or information that form the basis of the determination that the designated reporter knows or has reasonable cause to believe that an older person or vulnerable person has been exploited, including, without limitation, the identity of any person believed to be involved in the exploitation of the older person or vulnerable person; and

(b) Provide any financial records or other documentation relating to the exploitation of the older person or vulnerable person.

7. An officer, employee and the designated reporter are entitled to the immunity from liability set forth in NRS 200.5096 for making a report in good faith.

Sec. 33. ~~*[1. If an employee or officer who has received the training required pursuant to section 31 of this act fails to report the suspected or known exploitation of an older person or vulnerable person to a designated reporter or if a designated reporter fails to make a report pursuant to section 32 of this act, the licensee that employs the employee, officer or designated reporter is subject to a civil penalty in an amount:*~~

~~*(a) Not to exceed $1,000, if the failure to report was not willful; or*~~

~~*(b) Not to exceed $5,000, if the failure to report was willful.*~~

~~*2. A civil penalty pursuant to this section may be recovered only in a civil action brought in the name of the State of Nevada by the Attorney General or by a district attorney in a court of competent jurisdiction.*~~

~~*3. The provisions of this section do not limit or prohibit any other action and are in addition to any other remedy that may be available by law.]*~~

(Deleted by amendment.)

Sec. 34. Chapter 678 of NRS is hereby amended by adding thereto the provisions set forth as sections 35 to 43, inclusive, of this act.

Sec. 35. ***As used in sections 35 to 43, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 36 to 40, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 36. ***"Designated reporter" means a person designated by a credit union to receive reports of known or suspected exploitation of an older person or vulnerable person pursuant to section 42 of this act.***

Sec. 37. ***"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.***

Sec. 38. ***"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.***

Sec. 39. ***"Reasonable cause to believe" has the meaning ascribed to it in NRS 200.50925.***

Sec. 40. ***"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.***

Sec. 41. ***1. Each credit union shall provide training concerning the identification and reporting of the suspected exploitation of an older person or vulnerable person to each employee of the credit union who:***

(a) May, as part of his regular duties for the credit union, come into direct contact with an older person or vulnerable person; or

(b) May review or approve the financial documents, records or transactions of an older person or vulnerable person in connection with providing financial services to the older person or vulnerable person.

2. The training required pursuant to subsection 1 must be provided as soon as reasonably practicable, but not later than 6 months after the employee is employed by the credit union.

3. The training required pursuant to subsection 1 must include, without limitation:

(a) An explanation of the conduct which constitutes exploitation of an older person or vulnerable person;

(b) The manner in which exploitation of an older person or vulnerable person may be recognized;

(c) Information concerning the manner in which reports of exploitation are investigated; and

(d) Instruction concerning when and how to report known or suspected exploitation of an older person or vulnerable person.

4. An employee who has observed or has knowledge of an incident that is directly related to a transaction or matter which is within his scope of practice and which reasonably appears to be exploitation of an older person or vulnerable person shall report the known or suspected exploitation to the designated reporter.

Sec. 42. ***1. Each credit union shall designate a person or persons to whom an employee of the credit union must report known or suspected exploitation of an older person or vulnerable person.***

2. If an employee reports known or suspected exploitation of an older person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that an older person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 3, report the known or suspected exploitation 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.

3. If the designated reporter knows or has reasonable cause to believe that the exploitation 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 designated reporter

shall make the report to an agency other than the one alleged to have committed the act or omission.

4. If an employee reports known or suspected exploitation of a vulnerable person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that a vulnerable person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 5, report the known or suspected exploitation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable.

5. If the designated reporter knows or has reasonable cause to believe that the exploitation of the vulnerable person involves an act or omission of a law enforcement agency, the designated reporter shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

6. In accordance with the provisions of subsection 3 of NRS 239A.070, in making a report pursuant to this section, a designated reporter may:

(a) Disclose any facts or information that form the basis of the determination that the designated reporter knows or has reasonable cause to believe that an older person or vulnerable person has been exploited, including, without limitation, the identity of any person believed to be involved in the exploitation of the older person or vulnerable person; and

(b) Provide any financial records or other documentation relating to the exploitation of the older person or vulnerable person.

7. An employee and the designated reporter are entitled to the immunity from liability set forth in NRS 200.5096 for making a report in good faith.

Sec. 43. ~~*[1. If an employee who has received the training required pursuant to section 41 of this act fails to report the suspected or known exploitation of an older person or vulnerable person to a designated reporter or if a designated reporter fails to make a report pursuant to section 42 of this act, the credit union that employs the employee or designated reporter shall be subject to a civil penalty in an amount:*~~

~~*(a) Not to exceed $1,000, if the failure to report was not willful; or*~~

~~*(b) Not to exceed $5,000, if the failure to report was willful.*~~

~~*2. A civil penalty pursuant to this section may be recovered only in a civil action brought in the name of the State of Nevada by the Attorney General or by a district attorney in a court of competent jurisdiction.*~~

~~*3. The provisions of this section do not limit or prohibit any other action and are in addition to any other remedy that may be available by law.]*~~

(Deleted by amendment.)

Assemblyman Anderson moved that the Assembly concur in the Senate Amendment No. 968 to Assembly Bill No. 87.

Remarks by Assemblyman Anderson.
Motion carried by a constitutional majority.`
Bill ordered to enrollment.

Assembly Bill No. 92.
The following Senate amendment was read:
Amendment No. 790.
Joint Sponsor: **Assemblywoman Weber**

AN ACT relating to criminal procedure; expanding the crimes for which a convicted person is required to submit a biological specimen to be used for genetic marker analysis; **prohibiting the sharing or disclosure of biological specimens and certain information except under certain circumstances; providing penalties;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[This]~~ **Section 1 of this** bill expands the crimes for which a convicted person is required to submit to the Central Repository for Nevada Records of Criminal History a biological specimen to be used for analysis to determine the genetic markers of the specimen to include any felony, rather than certain felonies. (NRS 176.0913) **Sections 1 and 2 of this bill prohibit the sharing or disclosure of biological specimens and certain information except under certain circumstances. (NRS 176.0913, 176.0916).**

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

Section 1. NRS 176.0913 is hereby amended to read as follows:

176.0913 1. If a defendant is convicted of an offense listed in subsection 4, the court, at sentencing, shall order that:

(a) The name, social security number, date of birth and any other information identifying the defendant be submitted to the Central Repository for Nevada Records of Criminal History; and

(b) A biological specimen be obtained from the defendant pursuant to the provisions of this section and that the specimen be used for an analysis to determine the genetic markers of the specimen.

2. If the defendant is committed to the custody of the Department of Corrections, the Department of Corrections shall arrange for the biological specimen to be obtained from the defendant. The Department of Corrections shall provide the specimen to the forensic laboratory that has been designated by the county in which the defendant was convicted to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917.

3. If the defendant is not committed to the custody of the Department of Corrections, the Division shall arrange for the biological specimen to be obtained from the defendant. The Division shall provide the specimen to the forensic laboratory that has been designated by the county in which the defendant was convicted to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917. Any cost that is incurred to obtain a

biological specimen from a defendant pursuant to this subsection is a charge against the county in which the defendant was convicted and must be paid as provided in NRS 176.0915.

4. Except as otherwise provided in subsection 5, the provisions of subsection 1 apply to a defendant who is convicted of:

(a) A ~~[category A]~~ felony;

(b) ~~[A category B felony;~~

~~(c) A category C felony involving the use or threatened use of force or violence against the victim;~~

~~(d)]~~ A crime against a child as defined in NRS 179D.210;

~~[(e)]~~ ***(c)*** A sexual offense as defined in NRS 179D.410;

~~[(f)]~~ ***(d)*** Abuse or neglect of an older person or a vulnerable person pursuant to NRS 200.5099;

~~[(g)]~~ ***(e)*** A second or subsequent offense for stalking pursuant to NRS 200.575;

~~[(h)]~~ ***(f)*** An attempt or conspiracy to commit an offense listed in paragraphs (a) to ~~[(g), inclusive;~~

~~(i)]~~ ***(e), inclusive;***

(g) Failing to register with a local law enforcement agency as a convicted person as required pursuant to NRS 179C.100, if the defendant previously was:

(1) Convicted in this State of committing an offense listed in paragraph (a), ~~[(b), (c), (f), (g) or (h);]~~ ***(d), (e) or (f);*** or

(2) Convicted in another jurisdiction of committing an offense that would constitute an offense listed in paragraph (a), ~~[(b), (c), (f), (g) or (h)]~~ ***(d), (e) or (f)*** if committed in this State;

~~[(j)]~~ ***(h)*** Failing to register with a local law enforcement agency after being convicted of a crime against a child as required pursuant to NRS 179D.240; or

~~[(k)]~~ ***(i)*** Failing to register with a local law enforcement agency after being convicted of a sexual offense as required pursuant to NRS 179D.450.

5. A court shall not order a biological specimen to be obtained from a defendant who has previously submitted such a specimen for conviction of a prior offense unless the court determines that an additional sample is necessary.

6. Except as otherwise authorized by federal law or by specific statute, a biological specimen obtained pursuant to this section, the results of a genetic marker analysis and any information identifying or matching a biological specimen with a person must not be shared with or disclosed to any person other than the authorized personnel who have possession and control of the biological specimen, results of a genetic marker analysis or information identifying or matching a biological specimen with a person, except pursuant to:

(a) A court order; or

(b) A request from a law enforcement agency during the course of an investigation.

7. A person who violates any provision of subsection 6 is guilty of a misdemeanor.

Sec. 2. **NRS 176.0916 is hereby amended to read as follows:**

176.0916 1. If the Division is supervising a probationer or parolee pursuant to an interstate compact and the probationer or parolee is or has been convicted in another jurisdiction of violating a law that prohibits the same or similar conduct as an offense listed in subsection 4 of NRS 176.0913, the Division shall arrange for a biological specimen to be obtained from the probationer or parolee.

2. After a biological specimen is obtained from a probationer or parolee pursuant to this section, the Division shall:

(a) Provide the biological specimen to the forensic laboratory that has been designated by the county in which the probationer or parolee is residing to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917; and

(b) Submit the name, social security number, date of birth and any other information identifying the probationer or parolee to the Central Repository for Nevada Records of Criminal History.

3. ***Except as otherwise authorized by federal law or by specific statute, a biological specimen obtained pursuant to this section, the results of a genetic marker analysis and any information identifying or matching a biological specimen with a person must not be shared with or disclosed to any person other than the authorized personnel who have possession and control of the biological specimen, results of a genetic marker analysis or information identifying or matching a biological specimen with a person, except pursuant to:***

(a) A court order; or

(b) A request from a law enforcement agency during the course of an investigation.

4. A person who violates any provision of subsection 3 is guilty of a misdemeanor.

5. A probationer or parolee, to the extent of his financial ability, shall pay the sum of $150 to the Division as a fee for obtaining the biological specimen and for conducting the analysis to determine the genetic markers of the biological specimen. Except as otherwise provided in subsection ~~[4,]~~ ***6,*** the fee required pursuant to this subsection must be collected from a probationer or parolee at the time the biological specimen is obtained from the probationer or parolee.

~~[4.]~~ ***6.*** A probationer or parolee may arrange to make monthly payments of the fee required pursuant to subsection ~~[3.]~~ ***5.*** If such arrangements are made, the Division shall provide a probationer or parolee with a monthly statement that specifies the date on which the next payment is due.

~~[5.]~~ ***7.*** Any unpaid balance for a fee required pursuant to subsection ~~[3]~~ ***5*** is a charge against the Division.

~~[6.]~~ ***8.*** The Division shall deposit money that is collected pursuant to this section in the Fund for Genetic Marker Testing, which is hereby created in the State General Fund. The money deposited in the Fund for Genetic Marker Testing must be used to pay for the actual amount charged to the Division for obtaining biological specimens from probationers and parolees, and for conducting an analysis to determine the genetic markers of the specimens.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 92.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 127.

The following Senate amendment was read:

Amendment No. 792.

SUMMARY—Revises provisions relating to interception of wire communications. (BDR ~~[15-1049)]~~ **54-1049)**

AN ACT relating to communications; ~~[authorizing]~~ **clarifying that** a person ~~[to]~~ **may** record certain telephone calls made by collection agents and collection agencies ~~[without obtaining their consent;]~~ **after providing notice that the call is being recorded and making a statement to that effect on the recording;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally requires two-party consent before a person may record a telephone conversation. (NRS 200.620) The Nevada Supreme Court has interpreted existing law to prohibit a person from recording his own telephone conversations unless the other party to the conversation gives prior consent to the recording. (***Lane v. Allstate Ins. Co.***, 114 Nev. 1176 (1998)) ~~[However, the law recognizes exceptions to the requirement of two-party consent for certain situations, including: (1) interceptions of wire communications made pursuant to a court order; (2) interceptions of wire communications made with the consent of one party in an emergency situation and later ratified by a court; (3) interceptions of communications made by an offender in an institution or facility with a person outside of the institution or facility in certain circumstances; and (4) a public utility recording telephone calls relating to emergencies and service outages in certain circumstances. (NRS 179.410-179.515, 209.419, 704.195)]~~ **Existing law also prohibits the surreptitious listening, monitoring or recording of private conversations engaged in by other persons. (NRS 200.650)**

~~[Sections 1 and]~~ **Section** 4 of this bill ~~[provide an additional exception to the two-party consent requirement set forth in NRS 200.620. Section 4 authorizes]~~ **provides that, after providing notice to the collection agency or collection agent that the telephone call is being recorded and making**

a statement to that effect on the recording, a person ~~[to]~~ **may** record any telephone call concerning a debt which is owed or asserted to be owed by the person if the telephone call is initiated by a collection agency or collection agent and received by the person who owes or is alleged to owe the debt. ~~[Section 4 further provides that the person who records the telephone call is not required to obtain the consent of the collection agency or collection agent to record the telephone call or provide notice to the collection agency or collection agent that the telephone call is being recorded.]~~

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

Section 1. ~~[NRS 200.620 is hereby amended to read as follows:~~

~~200.620 1. Except as otherwise provided in NRS 179.410 to 179.515, inclusive, 209.419 and 704.195,~~ *and section 4 of this act*, ~~it is unlawful for any person to intercept or attempt to intercept any wire communication unless:~~

~~(a) The interception or attempted interception is made with the prior consent of one of the parties to the communication; and~~

~~(b) An emergency situation exists and it is impractical to obtain a court order as required by NRS 179.410 to 179.515, inclusive, before the interception, in which event the interception is subject to the requirements of subsection 3. If the application for ratification is denied, any use or disclosure of the information so intercepted is unlawful, and the person who made the interception shall notify the sender and the receiver of the communication that:~~

~~(1) The communication was intercepted; and~~

~~(2) Upon application to the court, ratification of the interception was denied.~~

~~2. This section does not apply to any person, or to the officers, employees or agents of any person, engaged in the business of providing service and facilities for wire communication where the interception or attempted interception is to construct, maintain, conduct or operate the service or facilities of that person.~~

~~3. Any person who has made an interception in an emergency situation as provided in paragraph (b) of subsection 1 shall, within 72 hours of the interception, make a written application to a justice of the Supreme Court or district judge for ratification of the interception. The interception must not be ratified unless the applicant shows that:~~

~~(a) An emergency situation existed and it was impractical to obtain a court order before the interception; and~~

~~(b) Except for the absence of a court order, the interception met the requirements of NRS 179.410 to 179.515, inclusive.~~

~~4. NRS 200.610 to 200.690, inclusive, do not prohibit the recording, and NRS 179.410 to 179.515, inclusive, do not prohibit the reception in evidence, of conversations on wire communications installed in the office of an official~~

~~law enforcement or fire fighting agency, or a public utility, if the equipment used for the recording is installed in a facility for wire communications or on a telephone with a number listed in a directory, on which emergency calls or requests by a person for response by the law enforcement or fire fighting agency or public utility are likely to be received. In addition, those sections do not prohibit the recording or reception in evidence of conversations initiated by the law enforcement or fire fighting agency or public utility from such a facility or telephone in connection with responding to the original call or request, if the agency or public utility informs the other party that the conversation is being recorded.]~~ **(Deleted by amendment.)**

Sec. 2. ~~[NRS 200.650 is hereby amended to read as follows:~~

~~200.650 Except as otherwise provided in NRS 179.410 to 179.515, inclusive, and 704.195, *and section 4 of this act*, a person shall not intrude upon the privacy of other persons by surreptitiously listening to, monitoring or recording, or attempting to listen to, monitor or record, by means of any mechanical, electronic or other listening device, any private conversation engaged in by the other persons, or disclose the existence, content, substance, purport, effect or meaning of any conversation so listened to, monitored or recorded, unless authorized to do so by one of the persons engaging in the conversation.]~~ **(Deleted by amendment.)**

Sec. 3. ~~[NRS 179.458 is hereby amended to read as follows:~~

~~179.458 The provisions of NRS 179.410 to 179.515, inclusive, do not prohibit the recording of any telephone call by [a]:~~

~~*1. A public utility pursuant to NRS 704.195.[.]; or*~~

~~*2. A person authorized to record a telephone call made by a collection agency or collection agent pursuant to section 4 of this act.]~~ **(Deleted by amendment.)**

Sec. 4. Chapter 649 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[A]~~ After providing notice that the telephone conversation will be recorded, a person may record any telephone call that:

(a) Concerns a claim which is owed or asserted to be owed by the person;

(b) Is made by a collection agency or collection agent; and

(c) Is received by the person.

2. A person who records a telephone call pursuant to this section is ~~[not]~~ required to ~~[:~~

~~*(a) Obtain the consent of the collection agency or collection agent to record the telephone call; or*~~

~~*(b) Provide notice to the collection agency or collection agent that the person is recording the telephone call.]~~ make a statement immediately after the recording begins that the telephone call is being recorded.***

3. As used in this section, "record" means the acquisition of the contents of a wire communication through the use of a recording device.

Assemblyman Anderson moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 127.

Remarks by Assemblyman Anderson.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 193.

The following Senate amendment was read:

Amendment No. 755.

AN ACT relating to crimes; establishing the requirements for determining whether a person is insane for purposes of the plea of not guilty by reason of insanity and for the insanity defense; authorizing a plea and verdict of guilty but mentally ill under certain circumstances; **providing for annual evaluations and the discharge or conditional release of a person who is committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services after an acquittal by reason of insanity in certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

In 1995, the Legislature enacted Senate Bill No. 314 which abolished the insanity defense in criminal cases and instead authorized a plea of guilty but mentally ill. In 2001, the Nevada Supreme Court interpreted the provisions of Senate Bill No. 314 and ruled that the federal and state constitutions require the State to provide to criminal defendants the option of raising an insanity defense for crimes that require an element of intent. (***Finger v. State***, 117 Nev. 548 (2001)) Based on this reasoning and because the Court did not believe that the Legislature would wish to preserve the plea of guilty but mentally ill under these circumstances, the Court struck Senate Bill No. 314 in its entirety and reinstated the insanity defense as it existed before Senate Bill No. 314. (***Finger***, 117 Nev. at 575) In response to ***Finger***, the Legislature enacted legislation in 2003, Assembly Bill No. 156, which statutorily abolished the plea of guilty but mentally ill and reinstated the insanity defense.

Section 4 of this bill reinstates the plea of guilty but mentally ill as an additional plea. Section 4 also provides that a defendant who pleads guilty but mentally ill bears the burden of establishing his mental illness by a preponderance of the evidence and that generally such a defendant is subject to the same penalties and procedures as a defendant who pleads guilty. (NRS 174.035)

Section 10 of this bill authorizes the verdict of guilty but mentally ill. Specifically, section 10 authorizes a judge or jury to find a defendant guilty but mentally ill if the judge or jury finds that the defendant: (1) is guilty of the offense; (2) has established that he was mentally ill at the time the offense was committed; and (3) has not established that he was insane for purposes of the defense of insanity. Generally, a defendant who is found guilty but

mentally ill is subject to the same penalties and procedures as a defendant who is found guilty.

Section 17 of this bill provides the types of sentences a court may impose upon a defendant who pleads or is found guilty but mentally ill. Regardless of whether a defendant is mentally ill at the time of sentencing, the court is required to impose any sentence available to the court for a defendant who pleads or is found guilty of the same offense. However, if the defendant is mentally ill at the time of sentencing and the sentence includes a term of confinement, the court is also required, under certain circumstances, to direct the Department of Corrections to provide to the defendant such treatment as is medically indicated for his mental illness during his confinement. This bill contains many of the same provisions that were included in Senate Bill No. 314 of the 1995 Legislative Session, as well as many new sections that were included to provide for the plea and verdict of guilty but mentally ill.

Under existing case law in Nevada, a defendant in a criminal case who asserts the insanity defense must prove that he was in a delusional state at the time of the alleged crime and due to that delusional state, he either: (1) did not understand the nature or capacity of his act; or (2) did not appreciate that his act was wrong, meaning that the act is not authorized by law. (***Finger***, 117 Nev. at 576) This standard for establishing insanity is commonly referred to as the "M'Naghten Rule." The Nevada Supreme Court has recognized that the Legislature may determine that legal insanity be proven by the defendant by any one of the established standards, including by the M'Naghten Rule. (***Finger***, 117 Nev. at 575) Section 4 of this bill codifies the M'Naghten Rule, as stated above, as the standard for establishing insanity for purposes of the insanity defense. (NRS 174.035)

Existing law requires a court to order a person who is acquitted by reason of insanity committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services if the court determines that there is clear and convincing evidence that the person is mentally ill. (NRS 175.539) Existing law provides that such a person committed to the custody of the Administrator is generally subject to the same procedures upon commitment as a person who is committed to the custody of the Administrator because he is incompetent to stand trial. (NRS 175.539, 178.400-178.460)

Sections 30-39 of this bill establish the procedures governing the discharge or conditional release of a person who is committed to the custody of the Administrator following an acquittal by reason of insanity. Section 36 provides that such a person is eligible for discharge or conditional release from custody if he establishes by a preponderance of the evidence that he would not be a danger, as a result of any mental disorder, to himself or others. Section 37 provides that an initial hearing to determine whether a person is eligible for discharge or conditional release must be held not later than 60 days after the person has been

committed to the custody of the Administrator, except in certain circumstances. Not later than 21 days before this hearing and annually thereafter, the Administrator shall prepare a report concerning the condition of the person and provide a copy of it to the person, his attorney, the prosecuting attorney and the court. The opinion of the Administrator included in the report concerning whether or not the person should be discharged or conditionally released may be challenged by either the person committed to the custody of the Administrator or the district attorney. Section 38 provides that if a person is not discharged or conditionally released from the custody of the Administrator following his initial hearing, the person may petition annually for a discharge or conditional release. Section 38 further provides that the Division may petition for a discharge or conditional release at any time if the petition is accompanied by the affidavit of a physician or licensed psychologist which states that the person's mental condition has improved since the most recent hearing concerning the discharge or conditional release of the person.

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

Section 1. NRS 169.195 is hereby amended to read as follows:

169.195 1. "Trial" means that portion of a criminal action which:

(a) If a jury is used, begins with the impaneling of the jury and ends with the return of the verdict, both inclusive.

(b) If no jury is used, begins with the opening statement, or if there is no opening statement, when the first witness is sworn, and ends with the closing argument or upon submission of the cause to the court without argument, both inclusive.

2. "Trial" does not include any proceeding had upon a plea of guilty ***or guilty but mentally ill*** to determine the degree of guilt or to fix the punishment.

Sec. 2. NRS 173.035 is hereby amended to read as follows:

173.035 1. An information may be filed against any person for any offense when the person:

(a) Has had a preliminary examination as provided by law before a justice of the peace, or other examining officer or magistrate, and has been bound over to appear at the court having jurisdiction; or

(b) Has waived his right to a preliminary examination.

2. If, however, upon the preliminary examination the accused has been discharged, or the affidavit or complaint upon which the examination has been held has not been delivered to the clerk of the proper court, the Attorney General when acting pursuant to a specific statute or the district attorney may, upon affidavit of any person who has knowledge of the commission of an offense, and who is a competent witness to testify in the case, setting forth the offense and the name of the person or persons charged with the

commission thereof, upon being furnished with the names of the witnesses for the prosecution, by leave of the court first had, file an information, and process must forthwith be issued thereon. The affidavit need not be filed in cases where the defendant has waived a preliminary examination, or upon a preliminary examination has been bound over to appear at the court having jurisdiction.

3. The information must be filed within 15 days after the holding or waiver of the preliminary examination. Each information must set forth the crime committed according to the facts.

4. If, with the consent of the prosecuting attorney, a defendant waives his right to a preliminary examination in accordance with an agreement by the defendant to plead guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or ***to*** at least one ***,*** but not all, of the initial charges, the information filed against the defendant pursuant to this section may contain only the offense or offenses to which the defendant has agreed to enter a plea of guilty ***, guilty but mentally ill*** or nolo contendere. If, for any reason, the agreement is rejected by the district court or withdrawn by the defendant, the prosecuting attorney may file an amended information charging all of the offenses which were in the criminal complaint upon which the preliminary examination was waived. The defendant must then be arraigned in accordance with the amended information.

Sec. 3. NRS 173.125 is hereby amended to read as follows:

173.125 The prosecution is not required to elect between the different offenses or counts set forth in the indictment or information, and a plea of guilty ***or guilty but mentally ill*** to one or more offenses charged in the indictment or information does not preclude prosecution for the other offenses.

Sec. 4. NRS 174.035 is hereby amended to read as follows:

174.035 1. A defendant may plead not guilty, guilty ***, guilty but mentally ill*** or, with the consent of the court, nolo contendere. The court may refuse to accept a plea of guilty [.] ***or guilty but mentally ill.***

2. If a plea of guilty ***or guilty but mentally ill*** is made in a written plea agreement, the agreement must be in substantially the form prescribed in NRS 174.063. If a plea of guilty ***or guilty but mentally ill*** is made orally, the court shall not accept such a plea or a plea of nolo contendere without first addressing the defendant personally and determining that the plea is made voluntarily with understanding of the nature of the charge and consequences of the plea.

3. With the consent of the court and the district attorney, a defendant may enter a conditional plea of guilty ***, guilty but mentally ill*** or nolo contendere, reserving in writing the right, on appeal from the judgment, to a review of the adverse determination of any specified pretrial motion. A defendant who prevails on appeal must be allowed to withdraw the plea.

4. ***A plea of guilty but mentally ill must be entered not less than 21 days before the date set for trial. A defendant who has entered a plea of guilty***

but mentally ill has the burden of establishing his mental illness by a preponderance of the evidence. Except as otherwise provided by specific statute, a defendant who enters such a plea is subject to the same criminal, civil and administrative penalties and procedures as a defendant who pleads guilty.

5. The defendant may, in the alternative or in addition to any one of the pleas permitted by subsection 1, plead not guilty by reason of insanity. A plea of not guilty by reason of insanity must be entered not less than 21 days before the date set for trial. A defendant who has not so pleaded may offer the defense of insanity during trial upon good cause shown. Under such a plea or defense, the burden of proof is upon the defendant to establish ~~[his insanity]~~ by a preponderance of the evidence ~~[.~~

~~5.]~~ ***that:***

(a) Due to a disease or defect of the mind, he was in a delusional state at the time of the alleged offense; and

(b) Due to the delusional state, he either did not:

(1) Know or understand the nature and capacity of his act; or

(2) Appreciate that his conduct was wrong, meaning not authorized by law.

6. If a defendant refuses to plead or if the court refuses to accept a plea of guilty ***or guilty but mentally ill*** or if a defendant corporation fails to appear, the court shall enter a plea of not guilty.

~~[6.]~~ ***7.*** A defendant may not enter a plea of guilty ***or guilty but mentally ill*** pursuant to a plea bargain for an offense punishable as a felony for which:

(a) Probation is not allowed; or

(b) The maximum prison sentence is more than 10 years,

➥ unless the plea bargain is set forth in writing and signed by the defendant, the defendant's attorney, if he is represented by counsel, and the prosecuting attorney.

8. As used in this section, a "disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

Sec. 5. NRS 174.055 is hereby amended to read as follows:

174.055 In ~~[the]~~ ***a*** justice court, if the defendant pleads guilty ~~[,]~~ ***or guilty but mentally ill,*** the court may, before entering such a plea or pronouncing judgment, examine witnesses to ascertain the gravity of the offense committed. If it appears to the court that a higher offense has been committed than the offense charged in the complaint, the court may order the defendant to be committed or admitted to bail or to answer any indictment that may be found against him or any information which may be filed by the district attorney.

Sec. 6. NRS 174.061 is hereby amended to read as follows:

174.061 1. If a prosecuting attorney enters into an agreement with a defendant in which the defendant agrees to testify against another defendant in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to

a lesser charge or for a recommendation of a reduced sentence, the agreement:

(a) Is void if the defendant's testimony is false.

(b) Must be in writing and include a statement that the agreement is void if the defendant's testimony is false.

2. A prosecuting attorney shall not enter into an agreement with a defendant which:

(a) Limits the testimony of the defendant to a predetermined formula.

(b) Is contingent on the testimony of the defendant contributing to a specified conclusion.

Sec. 7. NRS 174.063 is hereby amended to read as follows:

174.063 1. If a plea of guilty ***or guilty but mentally ill*** is made in a written plea agreement, the agreement must be substantially in the following form:

Case No.

Dept. No.

IN THE ..... JUDICIAL DISTRICT COURT OF THE

STATE OF NEVADA IN AND FOR THE COUNTY OF.....,

The State of Nevada **,**

PLAINTIFF,

v.

(Name of defendant) **,**

DEFENDANT.

GUILTY ***OR GUILTY BUT MENTALLY ILL*** PLEA AGREEMENT

I hereby agree to plead guilty ***or guilty but mentally ill*** to: (List charges to which defendant is pleading guilty ~~[),]~~ ***or guilty but mentally ill),*** as more fully alleged in the charging document attached hereto as Exhibit 1.

My decision to plead guilty ***or guilty but mentally ill*** is based upon the plea agreement in this case which is as follows:

(State the terms of the agreement.)

CONSEQUENCES OF THE PLEA

I understand that by pleading guilty ***or guilty but mentally ill*** I admit the facts which support all the elements of the offenses to which I now plead as set forth in Exhibit 1.

I understand that as a consequence of my plea of guilty ***or guilty but mentally ill*** I may be imprisoned for a period of not more than (maximum term of imprisonment) and that I (may or will) be fined up to (maximum amount of fine). I understand that the law requires me to pay an administrative assessment fee.

I understand that, if appropriate, I will be ordered to make restitution to the victim of the offenses to which I am pleading guilty ***or guilty but mentally ill*** and to the victim of any related offense which is being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to reimburse the State of Nevada for expenses ~~[related]~~ ***relating*** to my extradition, if any.

I understand that I (am or am not) eligible for probation for the offense to which I am pleading guilty ~~[.]~~ ***or guilty but mentally ill.*** (I understand that, except as otherwise provided by statute, the question of whether I receive probation is in the discretion of the sentencing judge, or I understand that I must serve a mandatory minimum term of (term of imprisonment) or pay a minimum mandatory fine of (amount of fine) or serve a mandatory minimum term (term of imprisonment) and pay a minimum mandatory fine of (amount of fine).)

I understand that if more than one sentence of imprisonment is imposed and I am eligible to serve the sentences concurrently, the sentencing judge has the discretion to order the sentences served concurrently or consecutively.

I understand that information regarding charges not filed, dismissed charges or charges to be dismissed pursuant to this agreement may be considered by the judge at sentencing.

I have not been promised or guaranteed any particular sentence by anyone. I know that my sentence is to be determined by the court within the limits prescribed by statute. I understand that if my attorney or the State of Nevada or both recommend any specific punishment to the court, the court is not obligated to accept the recommendation.

I understand that the Division of Parole and Probation of the Department of Public Safety may or will prepare a report for the sentencing judge before sentencing. This report will include matters relevant to the issue of sentencing, including my criminal history. I understand that this report may contain hearsay information regarding my background and criminal history. My attorney (if represented by counsel) and I will each have the opportunity to comment on the information contained in the report at the time of sentencing.

WAIVER OF RIGHTS

By entering my plea of guilty ~~[,]~~ ***or guilty but mentally ill,*** I understand that I have waived the following rights and privileges:

1. The constitutional privilege against self-incrimination, including the right to refuse to testify at trial, in which event the prosecution would not be allowed to comment to the jury about my refusal to testify.

2. The constitutional right to a speedy and public trial by an impartial jury, free of excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the assistance of an attorney, either appointed or retained. At trial, the State would bear the burden of proving beyond a reasonable doubt each element of the offense charged.

3. The constitutional right to confront and cross-examine any witnesses who would testify against me.

4. The constitutional right to subpoena witnesses to testify on my behalf.

5. The constitutional right to testify in my own defense.

6. The right to appeal the conviction, with the assistance of an attorney, either appointed or retained, unless the appeal is based upon reasonable

constitutional, jurisdictional or other grounds that challenge the legality of the proceedings and except as otherwise provided in subsection 3 of NRS 174.035.

VOLUNTARINESS OF PLEA

I have discussed the elements of all the original charges against me with my attorney (if represented by counsel) and I understand the nature of these charges against me.

I understand that the State would have to prove each element of the charge against me at trial.

I have discussed with my attorney (if represented by counsel) any possible defenses and circumstances which might be in my favor.

All of the foregoing elements, consequences, rights and waiver of rights have been thoroughly explained to me by my attorney (if represented by counsel).

I believe that pleading guilty ***or guilty but mentally ill*** and accepting this plea bargain is in my best interest and that a trial would be contrary to my best interest.

I am signing this agreement voluntarily, after consultation with my attorney (if represented by counsel) and I am not acting under duress or coercion or by virtue of any promises of leniency, except for those set forth in this agreement.

I am not now under the influence of intoxicating liquor, a controlled substance or other drug which would in any manner impair my ability to comprehend or understand this agreement or the proceedings surrounding my entry of this plea.

My attorney (if represented by counsel) has answered all my questions regarding this guilty ***or guilty but mentally ill*** plea agreement and its consequences to my satisfaction and I am satisfied with the services provided by my attorney.

Dated: This ..... day of the month of ……. of the year …….

Defendant.

Agreed to on this ..... day of the month of ……. of the year …….

Deputy District Attorney.

2. If the defendant is represented by counsel, the written plea agreement must also include a certificate of counsel that is substantially in the following form:

CERTIFICATE OF COUNSEL

I, the undersigned, as the attorney for the defendant named herein and as an officer of the court hereby certify that:

1. I have fully explained to the defendant the allegations contained in the charges to which guilty ***or guilty but mentally ill*** pleas are being entered.

2. I have advised the defendant of the penalties for each charge and the restitution that the defendant may be ordered to pay.

3. All pleas of guilty ***or guilty but mentally ill*** offered by the defendant pursuant to this agreement are consistent with all the facts known to me and are made with my advice to the defendant and are in the best interest of the defendant.

4. To the best of my knowledge and belief, the defendant:

(a) Is competent and understands the charges and the consequences of pleading guilty ***or guilty but mentally ill*** as provided in this agreement.

(b) Executed this agreement and will enter all guilty ***or guilty but mentally ill*** pleas pursuant hereto voluntarily.

(c) Was not under the influence of intoxicating liquor, a controlled substance or other drug at the time of the execution of this agreement.

Dated: This ..... day of the month of ……. of the year …….

Attorney for defendant.

Sec. 8. NRS 174.065 is hereby amended to read as follows:

174.065 Except as otherwise provided in NRS 174.061:

1. On a plea of guilty ***or guilty but mentally ill*** to an information or indictment accusing a defendant of a crime divided into degrees, when consented to by the prosecuting attorney in open court and approved by the court, the plea may specify the degree, and in such event the defendant shall not be punished for a higher degree than that specified in the plea.

2. On a plea of guilty ***or guilty but mentally ill*** to an indictment or information for murder of the first degree, when consented to by the prosecuting attorney in open court and approved by the court, the plea may specify a punishment less than death. The specified punishment, or any lesser punishment, may be imposed by a single judge.

Sec. 9. NRS 174.075 is hereby amended to read as follows:

174.075 1. Pleadings in criminal proceedings are the indictment, the information and, in justice court, the complaint, and the pleas of guilty, ***guilty but mentally ill,*** not guilty ***, not guilty by reason of insanity*** and nolo contendere.

2. All other pleas, ~~[and]~~ demurrers and motions to quash are abolished, and defenses and objections raised before trial which could have been raised by one or more of them may be raised only by motion to dismiss or to grant appropriate relief, as provided in this title.

Sec. 10. Chapter 175 of NRS is hereby amended by adding thereto a new section to read as follows:

1. During a trial, upon a plea of not guilty by reason of insanity, the trier of fact may find the defendant guilty but mentally ill if the trier of fact finds all of the following:

(a) The defendant is guilty beyond a reasonable doubt of an offense;

(b) The defendant has established by a preponderance of the evidence that due to a disease or defect of the mind, he was mentally ill at the time of the commission of the offense; and

(c) The defendant has not established by a preponderance of the evidence that he is not guilty by reason of insanity pursuant to subsection 5 of NRS 174.035.

2. Except as otherwise provided by specific statute, a defendant who is found guilty but mentally ill is subject to the same criminal, civil and administrative penalties and procedures as a defendant who is found guilty.

3. As used in this section, a "disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

Sec. 11. NRS 175.101 is hereby amended to read as follows:

175.101 If by reason of absence from the judicial district, death, sickness or other disability the judge before whom the defendant has been tried is unable to perform the duties to be performed by the court after a verdict or finding of ~~[guilt,]~~ ***guilty or guilty but mentally ill,*** any other judge regularly sitting in or assigned to the court may perform those duties ***,*** ~~[,]~~ but if such other judge is satisfied that he cannot perform those duties because he did not preside at the trial or for any other reason, he may in his discretion grant a new trial.

Sec. 12. NRS 175.282 is hereby amended to read as follows:

175.282 If a prosecuting attorney enters into an agreement with a defendant in which the defendant agrees to testify against another defendant in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for a recommendation of a reduced sentence, the court shall:

1. After excising any portion it deems irrelevant or prejudicial, permit the jury to inspect the agreement;

2. If the defendant who is testifying has not entered his plea or been sentenced pursuant to the agreement, instruct the jury regarding the possible related pressures on the defendant by providing the jury with an appropriate cautionary instruction; and

3. Allow the defense counsel to cross-examine fully the defendant who is testifying concerning the agreement.

Sec. 13. NRS 175.381 is hereby amended to read as follows:

175.381 1. If, at any time after the evidence on either side is closed, the court deems the evidence insufficient to warrant a conviction, it may advise the jury to acquit the defendant, but the jury is not bound by such advice.

2. The court may, on a motion of a defendant or on its own motion, which is made after the jury returns a verdict of guilty ~~[,]~~ ***or guilty but mentally ill,*** set aside the verdict and enter a judgment of acquittal if the evidence is insufficient to sustain a conviction. The motion for a judgment of acquittal must be made within 7 days after the jury is discharged or within such further time as the court may fix during that period.

3. If a motion for a judgment of acquittal after a verdict of guilty ***or guilty but mentally ill*** pursuant to this section is granted, the court shall also determine whether any motion for a new trial should be granted if the judgment of acquittal is thereafter vacated or reversed. The court shall

specify the grounds for that determination. If the motion for a new trial is granted conditionally, the order thereon does not affect the finality of the judgment. If the motion for a new trial is granted conditionally and the judgment is reversed on appeal, the new trial must proceed unless the appellate court has otherwise ordered. If the motion is denied conditionally, the defendant on appeal may assert error in that denial, and if the judgment is reversed on appeal, subsequent proceedings must be in accordance with the order of the appellate court.

Sec. 14. NRS 175.501 is hereby amended to read as follows:

175.501 The defendant may be found guilty ***or guilty but mentally ill*** of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein if the attempt is an offense.

Sec. 14.5. **NRS 175.539 is hereby amended to read as follows:**

175.539 1. Where on a trial a defense of insanity is interposed by the defendant and he is acquitted by reason of that defense, the finding of the jury pending the judicial determination pursuant to subsection 2 has the same effect as if he were regularly adjudged insane, and the judge must:

(a) Order a peace officer to take the person into protective custody and transport him to a forensic facility for detention pending a hearing to determine his mental health;

(b) Order the examination of the person by two psychiatrists, two psychologists, or one psychiatrist and one psychologist who are employed by a division facility; and

(c) At a hearing in open court, receive the report of the examining advisers and allow counsel for the State and for the person to examine the advisers, introduce other evidence and cross-examine witnesses.

2. If the court finds, after the hearing:

(a) That there is not clear and convincing evidence that the person is a mentally ill person, the court must order his discharge; or

(b) That there is clear and convincing evidence that the person is a mentally ill person, the court must order that he be committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services until he is ~~[regularly]~~ discharged ***or conditionally released*** therefrom in accordance with ~~[law.]~~ ***sections 30 to 39, inclusive, of this act.***

➥ The court shall issue its finding within 90 days after the defendant is acquitted.

3. The Administrator shall make the ~~[same]~~ reports and the court shall proceed in the ~~[same]~~ manner ~~[in the case of a person committed to the custody of the Division of Mental Health and Developmental Services pursuant to this section as of a person committed because he is incompetent to stand trial pursuant to NRS 178.400 to 178.460, inclusive, except that the determination to be made by the Administrator and the district judge on the question of release is whether the person has recovered from his mental~~

~~illness or has improved to such an extent that he is no longer a mentally ill person.]~~ ***provided in sections 30 to 39, inclusive, of this act.***

4. As used in this section, unless the context otherwise requires:

(a) "Division facility" has the meaning ascribed to it in NRS 433.094.

(b) "Forensic facility" means a secure facility of the Division of Mental Health and Developmental Services of the Department of Health and Human Services for mentally disordered offenders and defendants. The term includes, without limitation, Lakes Crossing Center.

(c) "Mentally ill person" has the meaning ascribed to it in ~~[NRS 433A.115.]~~ ***section 35 of this act.***

Sec. 15. NRS 175.547 is hereby amended to read as follows:

175.547 1. In any case in which a defendant pleads or is found guilty ***or guilty but mentally ill*** of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home, the court shall, at the request of the prosecuting attorney, conduct a separate hearing to determine whether the offense was sexually motivated. A request for such a hearing may not be submitted to the court unless the prosecuting attorney, before the commencement of the trial, files and serves upon the defendant a written notice of his intention to request such a hearing.

2. A hearing requested pursuant to subsection 1 must be conducted before:

(a) The court imposes its sentence; or

(b) A separate penalty hearing is conducted.

3. At the hearing, only evidence concerning the question of whether the offense was sexually motivated may be presented. The prosecuting attorney must prove beyond a reasonable doubt that the offense was sexually motivated.

4. The court shall enter its finding in the record.

5. For the purposes of this section, an offense is "sexually motivated" if one of the purposes for which the person committed the offense was his sexual gratification.

Sec. 16. NRS 175.552 is hereby amended to read as follows:

175.552 1. Except as otherwise provided in subsection 2, in every case in which there is a finding that a defendant is guilty ***or guilty but mentally ill*** of murder of the first degree, whether or not the death penalty is sought, the court shall conduct a separate penalty hearing. The separate penalty hearing must be conducted as follows:

(a) If the finding is made by a jury, the separate penalty hearing must be conducted in the trial court before the trial jury, as soon as practicable.

(b) If the finding is made upon a plea of guilty ***or guilty but mentally ill*** or a trial without a jury and the death penalty is sought, the separate penalty hearing must be conducted before a jury impaneled for that purpose, as soon as practicable.

(c) If the finding is made upon a plea of guilty ***or guilty but mentally ill*** or a trial without a jury and the death penalty is not sought, the separate penalty

hearing must be conducted ***as soon as practicable*** before the judge who conducted the trial or who accepted the plea **.** ~~[of guilty, as soon as practicable.]~~

2. In a case in which the death penalty is not sought or in which a court has made a finding that the defendant is mentally retarded and has stricken the notice of intent to seek the death penalty pursuant to NRS 174.098, the parties may by stipulation waive the separate penalty hearing required in subsection 1. When stipulating to such a waiver, the parties may also include an agreement to have the sentence, if any, imposed by the trial judge. Any stipulation pursuant to this subsection must be in writing and signed by the defendant, his attorney, if any, and the prosecuting attorney.

3. During the hearing, evidence may be presented concerning aggravating and mitigating circumstances relative to the offense, defendant or victim and on any other matter which the court deems relevant to sentence, whether or not the evidence is ordinarily admissible. Evidence may be offered to refute hearsay matters. No evidence which was secured in violation of the Constitution of the United States or the Constitution of the State of Nevada may be introduced. The State may introduce evidence of additional aggravating circumstances as set forth in NRS 200.033, other than the aggravated nature of the offense itself, only if it has been disclosed to the defendant before the commencement of the penalty hearing.

4. In a case in which the death penalty is not sought or in which a court has found the defendant to be mentally retarded and has stricken the notice of intent to seek the death penalty pursuant to NRS 174.098, the jury or the trial judge shall determine whether the defendant should be sentenced to life with the possibility of parole or life without the possibility of parole.

Sec. 17. Chapter 176 of NRS is hereby amended by adding a new section to read as follows:

1. If a defendant is found guilty but mentally ill pursuant to section 10 of this act or the court accepts his plea of guilty but mentally ill entered pursuant to NRS 174.035, and the court finds by a preponderance of the evidence that:

(a) The defendant is not mentally ill at the time of sentencing, the court shall impose any sentence that the court is authorized to impose upon a defendant who pleads or is found guilty of the same offense; or

(b) The defendant is mentally ill at the time of sentencing, the court shall:

(1) Impose any sentence that the court is authorized to impose upon a defendant who pleads or is found guilty of the same offense; and

(2) Include in that sentence an order that the defendant, during the period of his confinement or probation, be given or obtain such treatment as is medically indicated for his mental illness.

2. If the sentence of a defendant includes a period of confinement ~~*[, the Department of Corrections shall provide any treatment ordered by a court pursuant to subsection 1 at a facility designated by the Department to*~~

~~*provide such treatment. The]*~~ ***at a state correctional facility, the Department of Corrections shall separate such a person from the general population of the prison and shall not return the person to that population until a licensed psychiatrist or psychologist employed by the Department finds that the person*** ~~*[is]*~~ ***no longer*** ~~*[mentally ill.]*~~ ***requires acute mental health care. If the person is returned to the general population, the person must continue to be given or obtain such treatment as is medically indicated for his mental illness.***

Sec. 18. NRS 176.059 is hereby amended to read as follows:

176.059 1. Except as otherwise provided in subsection 2, when a defendant pleads guilty ***or guilty but mentally ill*** or is found guilty ***or guilty but mentally ill*** of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum prescribed by the following schedule as an administrative assessment and render a judgment against the defendant for the assessment:

Fine	Assessment
$5 to $49	$25
50 to 59	40
60 to 69	45
70 to 79	50
80 to 89	55
90 to 99	60
100 to 199	70
200 to 299	80
300 to 399	90
400 to 499	100
500 to 1,000	115

If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the amount of the administrative assessment that corresponds with the fine for which the defendant would have been responsible as prescribed by the schedule in this subsection.

2. The provisions of subsection 1 do not apply to:

(a) An ordinance regulating metered parking; or

(b) An ordinance which is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

3. The money collected for an administrative assessment must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the amount posted for bail pursuant to this subsection must be disbursed in the manner set forth in subsection 5 or 6. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or

judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he has paid and the justice or judge shall not recalculate the administrative assessment.

4. If the justice or judge permits the fine and administrative assessment to be paid in installments, the payments must be first applied to the unpaid balance of the administrative assessment. The city treasurer shall distribute partially collected administrative assessments in accordance with the requirements of subsection 5. The county treasurer shall distribute partially collected administrative assessments in accordance with the requirements of subsection 6.

5. The money collected for administrative assessments in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. The city treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Two dollars to the county treasurer for credit to a special account in the county general fund for the use of the county's juvenile court or for services to juvenile offenders. Any money remaining in the special account after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a juvenile court, monthly reports of the revenue credited to and expenditures made from the special account.

(b) Seven dollars for credit to a special revenue fund for the use of the municipal courts. Any money remaining in the special revenue fund after 2 fiscal years must be deposited in the municipal general fund if it has not been committed for expenditure. The city treasurer shall provide, upon request by a municipal court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

(c) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund.

6. The money collected for administrative assessments in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Two dollars for credit to a special account in the county general fund for the use of the county's juvenile court or for services to juvenile offenders. Any money remaining in the special account after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a juvenile court, monthly reports of the revenue credited to and expenditures made from the special account.

(b) Seven dollars for credit to a special revenue fund for the use of the justice courts. Any money remaining in the special revenue fund after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a justice court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

(c) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund.

7. The money apportioned to a juvenile court, a justice court or a municipal court pursuant to this section must be used, in addition to providing services to juvenile offenders in the juvenile court, to improve the operations of the court, or to acquire appropriate advanced technology or the use of such technology, or both. Money used to improve the operations of the court may include expenditures for:

(a) Training and education of personnel;

(b) Acquisition of capital goods;

(c) Management and operational studies; or

(d) Audits.

8. Of the total amount deposited in the State General Fund pursuant to subsections 5 and 6, the State Controller shall distribute the money received to the following public agencies in the following manner:

(a) Not less than 51 percent to the Office of Court Administrator for allocation as follows:

(1) Eighteen and one-half percent of the amount distributed to the Office of Court Administrator for the administration of the courts.

(2) Nine percent of the amount distributed to the Office of Court Administrator for the development of a uniform system for judicial records.

(3) Nine percent of the amount distributed to the Office of Court Administrator for continuing judicial education.

(4) Sixty percent of the amount distributed to the Office of Court Administrator for the Supreme Court.

(5) Three and one-half percent of the amount distributed to the Office of Court Administrator for the payment for the services of retired justices and retired district judges.

(b) Not more than 49 percent must be used to the extent of legislative authorization for the support of:

(1) The Central Repository for Nevada Records of Criminal History;

(2) The Peace Officers' Standards and Training Commission;

(3) The operation by the Nevada Highway Patrol of a computerized switching system for information related to law enforcement;

(4) The Fund for the Compensation of Victims of Crime; and

(5) The Advisory Council for Prosecuting Attorneys.

9. As used in this section:

(a) "Juvenile court" has the meaning ascribed to it in NRS 62A.180.

(b) "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320.

Sec. 19. NRS 176.0611 is hereby amended to read as follows:

176.0611 1. A county or a city, upon recommendation of the appropriate court, may, by ordinance, authorize the justices or judges of the justice or municipal courts within its jurisdiction to impose for not longer than 50 years, in addition to the administrative assessments imposed pursuant to NRS 176.059 and 176.0613, an administrative assessment for the provision of court facilities.

2. Except as otherwise provided in subsection 3, in any jurisdiction in which an administrative assessment for the provision of court facilities has been authorized, when a defendant pleads guilty or ***guilty but mentally ill or*** is found guilty ***or guilty but mentally ill*** of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of $10 as an administrative assessment for the provision of court facilities and render a judgment against the defendant for the assessment. If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the administrative assessment required pursuant to this subsection.

3. The provisions of subsection 2 do not apply to:

(a) An ordinance regulating metered parking; or

(b) An ordinance that is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

4. The money collected for an administrative assessment for the provision of court facilities must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the amount posted for bail pursuant to this subsection must be disbursed in the manner set forth in subsection 6 or 7. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he has paid and the justice or judge shall not recalculate the administrative assessment.

5. If the justice or judge permits the fine and administrative assessment for the provision of court facilities to be paid in installments, the payments must be applied in the following order:

(a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;

(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to this section;

(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs pursuant to NRS 176.0613; and

(d) To pay the fine.

6. The money collected for administrative assessments for the provision of court facilities in municipal courts must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. The city treasurer shall deposit the money received in a special revenue fund. The city may use the money in the special revenue fund only to:

(a) Acquire land on which to construct additional facilities for the municipal courts or a regional justice center that includes the municipal courts.

(b) Construct or acquire additional facilities for the municipal courts or a regional justice center that includes the municipal courts.

(c) Renovate or remodel existing facilities for the municipal courts.

(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the municipal courts or a regional justice center that includes the municipal courts. This paragraph does not authorize the expenditure of money from the fund for furniture, fixtures or equipment for judicial chambers.

(e) Acquire advanced technology for use in the additional or renovated facilities.

(f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the municipal courts or a regional justice center that includes the municipal courts.

➥ Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the municipal general fund for the continued maintenance of court facilities if it has not been committed for expenditure pursuant to a plan for the construction or acquisition of court facilities or improvements to court facilities. The city treasurer shall provide, upon request by a municipal court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

7. The money collected for administrative assessments for the provision of court facilities in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall deposit the money received to a special revenue fund. The county may use the money in the special revenue fund only to:

(a) Acquire land on which to construct additional facilities for the justice courts or a regional justice center that includes the justice courts.

(b) Construct or acquire additional facilities for the justice courts or a regional justice center that includes the justice courts.

(c) Renovate or remodel existing facilities for the justice courts.

(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the justice courts or a regional justice center that includes the justice courts. This paragraph does not authorize the expenditure of money from the fund for furniture, fixtures or equipment for judicial chambers.

(e) Acquire advanced technology for use in the additional or renovated facilities.

(f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the justice courts or a regional justice center that includes the justice courts.

➥ Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the county general fund for the continued maintenance of court facilities if it has not been committed for expenditure pursuant to a plan for the construction or acquisition of court facilities or improvements to court facilities. The county treasurer shall provide, upon request by a justice court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

8. If money collected pursuant to this section is to be used to acquire land on which to construct a regional justice center, to construct a regional justice center or to pay debt service on bonds issued for these purposes, the county and the participating cities shall, by interlocal agreement, determine such issues as the size of the regional justice center, the manner in which the center will be used and the apportionment of fiscal responsibility for the center.

Sec. 20. NRS 176.0613 is hereby amended to read as follows:

176.0613 1. The justices or judges of the justice or municipal courts shall impose, in addition to an administrative assessment imposed pursuant to NRS 176.059 and 176.0611, an administrative assessment for the provision of specialty court programs.

2. Except as otherwise provided in subsection 3, when a defendant pleads guilty ***or guilty but mentally ill*** or is found guilty ***or guilty but mentally ill*** of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of $7 as an administrative assessment for the provision of specialty court programs and render a judgment against the defendant for the assessment. If a defendant is sentenced to perform community service in lieu of a fine, the sentence must include the administrative assessment required pursuant to this subsection.

3. The provisions of subsection 2 do not apply to:

(a) An ordinance regulating metered parking; or

(b) An ordinance which is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

4. The money collected for an administrative assessment for the provision of specialty court programs must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the bail pursuant to this subsection must be disbursed pursuant to subsection 6 or 7. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he has paid and the justice or judge shall not recalculate the administrative assessment.

5. If the justice or judge permits the fine and administrative assessment for the provision of specialty court programs to be paid in installments, the payments must be applied in the following order:

(a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;

(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to NRS 176.0611;

(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs; and

(d) To pay the fine.

6. The money collected for an administrative assessment for the provision of specialty court programs in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the city treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

7. The money collected for an administrative assessment for the provision of specialty court programs in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the county treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

8. The Office of Court Administrator shall allocate the money credited to the State General Fund pursuant to subsections 6 and 7 to courts to assist with the funding or establishment of specialty court programs.

9. Money that is apportioned to a court from administrative assessments for the provision of specialty court programs must be used by the court to:

(a) Pay for the treatment and testing of persons who participate in the program; and

(b) Improve the operations of the specialty court program by any combination of:

(1) Acquiring necessary capital goods;

(2) Providing for personnel to staff and oversee the specialty court program;

(3) Providing training and education to personnel;

(4) Studying the management and operation of the program;

(5) Conducting audits of the program;

(6) Supplementing the funds used to pay for judges to oversee a specialty court program; or

(7) Acquiring or using appropriate technology.

10. As used in this section:

(a) "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320; and

(b) "Specialty court program" means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from a mental illness or abuses alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250 or 453.580.

Sec. 21. NRS 176.062 is hereby amended to read as follows:

176.062 1. When a defendant pleads guilty ***or guilty but mentally ill*** or is found guilty ***or guilty but mentally ill*** of a felony or gross misdemeanor, the judge shall include in the sentence the sum of $25 as an administrative assessment and render a judgment against the defendant for the assessment.

2. The money collected for an administrative assessment:

(a) Must not be deducted from any fine imposed by the judge;

(b) Must be taxed against the defendant in addition to the fine; and

(c) Must be stated separately on the court's docket.

3. The money collected for administrative assessments in district courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Five dollars for credit to a special account in the county general fund for the use of the district court.

(b) The remainder of each assessment to the State Controller.

4. The State Controller shall credit the money received pursuant to subsection 3 to a special account for the assistance of criminal justice in the State General Fund, and distribute the money from the account to the Attorney General as authorized by the Legislature. Any amount received in

excess of the amount authorized by the Legislature for distribution must remain in the account.

Sec. 22. NRS 176.135 is hereby amended to read as follows:

176.135 1. Except as otherwise provided in this section and NRS 176.151, the Division shall make a presentence investigation and report to the court on each defendant who pleads guilty ***, guilty but mentally ill*** or nolo contendere to **,** or is found guilty ***or guilty but mentally ill*** of **,** a felony.

2. If a defendant is convicted of a felony that is a sexual offense, the presentence investigation and report:

(a) Must be made before the imposition of sentence or the granting of probation; and

(b) If the sexual offense is an offense for which the suspension of sentence or the granting of probation is permitted, must include a psychosexual evaluation of the defendant.

3. If a defendant is convicted of a felony other than a sexual offense, the presentence investigation and report must be made before the imposition of sentence or the granting of probation unless:

(a) A sentence is fixed by a jury; or

(b) Such an investigation and report on the defendant has been made by the Division within the 5 years immediately preceding the date initially set for sentencing on the most recent offense.

4. Upon request of the court, the Division shall make presentence investigations and reports on defendants who plead guilty ***, guilty but mentally ill*** or nolo contendere to **,** or are found guilty ***or guilty but mentally ill*** of **,** gross misdemeanors.

Sec. 23. NRS 176.151 is hereby amended to read as follows:

176.151 1. If a defendant pleads guilty ***, guilty but mentally ill*** or nolo contendere to **,** or is found guilty ***or guilty but mentally ill*** of **,** one or more category E felonies, but no other felonies, the Division shall not make a presentence investigation and report on the defendant pursuant to NRS 176.135, unless the Division has not made a presentence investigation and report on the defendant pursuant to NRS 176.135 within the 5 years immediately preceding the date initially set for sentencing on the category E felony or felonies and:

(a) The court requests a presentence investigation and report; or

(b) The prosecuting attorney possesses evidence that would support a decision by the court to deny probation to the defendant pursuant to paragraph (b) of subsection 1 of NRS 176A.100.

2. If the Division does not make a presentence investigation and report on a defendant pursuant to subsection 1, the Division shall, not later than 45 days after the date on which the defendant is sentenced, make a general investigation and report on the defendant that contains:

(a) Any prior criminal record of the defendant;

(b) Information concerning the characteristics of the defendant, the circumstances affecting his behavior and the circumstances of his offense

that may be helpful to persons responsible for the supervision or correctional treatment of the defendant;

(c) Information concerning the effect that the offense committed by the defendant has had upon the victim, including, without limitation, any physical or psychological harm or financial loss suffered by the victim, to the extent that such information is available from the victim or other sources, but the provisions of this paragraph do not require any particular examination or testing of the victim, and the extent of any investigation or examination and the extent of the information included in the report is solely at the discretion of the Division;

(d) Data or information concerning reports and investigations thereof made pursuant to chapter 432B of NRS that relate to the defendant and are made available pursuant to NRS 432B.290; and

(e) Any other information that the Division believes may be helpful to persons responsible for the supervision or correctional treatment of the defendant.

Sec. 24. NRS 176.165 is hereby amended to read as follows:

176.165 Except as otherwise provided in this section, a motion to withdraw a plea of guilty ***, guilty but mentally ill*** or nolo contendere may be made only before sentence is imposed or imposition of sentence is suspended. To correct manifest injustice, the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw his plea.

Sec. 25. NRS 176A.255 is hereby amended to read as follows:

176A.255 1. A justice court or a municipal court may, upon approval of the district court, transfer original jurisdiction to the district court of a case involving an eligible defendant.

2. As used in this section, "eligible defendant" means a person who:

(a) Has not tendered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, or been found guilty ***or guilty but mentally ill*** of, an offense that is a misdemeanor;

(b) Appears to suffer from mental illness or to be mentally retarded; and

(c) Would benefit from assignment to a program established pursuant to NRS 176A.250.

Sec. 26. NRS 176A.260 is hereby amended to read as follows:

176A.260 1. Except as otherwise provided in subsection 2, if a defendant who suffers from mental illness or is mentally retarded tenders a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, or is found guilty ***or guilty but mentally ill*** of, any offense for which the suspension of sentence or the granting of probation is not prohibited by statute, the court may, without entering a judgment of conviction and with the consent of the defendant, suspend further proceedings and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to NRS 176A.250.

2. If the offense committed by the defendant involved the use or threatened use of force or violence or if the defendant was previously convicted in this State or in any other jurisdiction of a felony that involved the use or threatened use of force or violence, the court may not assign the defendant to the program unless the prosecuting attorney stipulates to the assignment.

3. Upon violation of a term or condition:

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

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

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

Sec. 27. NRS 177.015 is hereby amended to read as follows:

177.015 The party aggrieved in a criminal action may appeal only as follows:

1. Whether that party is the State or the defendant:

(a) To the district court of the county from a final judgment of the justice court.

(b) To the Supreme Court from an order of the district court granting a motion to dismiss, a motion for acquittal or a motion in arrest of judgment, or granting or refusing a new trial.

(c) To the Supreme Court from a determination of the district court about whether a defendant is mentally retarded that is made as a result of a hearing held pursuant to NRS 174.098. If the Supreme Court entertains the appeal, it shall enter an order staying the criminal proceedings against the defendant for such time as may be required.

2. The State may, upon good cause shown, appeal to the Supreme Court from a pretrial order of the district court granting or denying a motion to suppress evidence made pursuant to NRS 174.125. Notice of the appeal must be filed with the clerk of the district court within 2 judicial days and with the Clerk of the Supreme Court within 5 judicial days after the ruling by the

district court. The clerk of the district court shall notify counsel for the defendant or, in the case of a defendant without counsel, the defendant within 2 judicial days after the filing of the notice of appeal. The Supreme Court may establish such procedures as it determines proper in requiring the appellant to make a preliminary showing of the propriety of the appeal and whether there may be a miscarriage of justice if the appeal is not entertained. If the Supreme Court entertains the appeal, or if it otherwise appears necessary, it may enter an order staying the trial for such time as may be required.

3. The defendant only may appeal from a final judgment or verdict in a criminal case.

4. Except as otherwise provided in subsection 3 of NRS 174.035, the defendant in a criminal case shall not appeal a final judgment or verdict resulting from a plea of guilty ***, guilty but mentally ill*** or nolo contendere that the defendant entered into voluntarily and with a full understanding of the nature of the charge and the consequences of the plea, unless the appeal is based upon reasonable constitutional, jurisdictional or other grounds that challenge the legality of the proceedings. The Supreme Court may establish procedures to require the defendant to make a preliminary showing of the propriety of the appeal.

Sec. 28. NRS 177.075 is hereby amended to read as follows:

177.075 1. Except where appeal is automatic, an appeal from a district court to the Supreme Court is taken by filing a notice of appeal with the clerk of the district court. Bills of exception and assignments of error in cases governed by this chapter are abolished.

2. When a court imposes sentence upon a defendant who has not pleaded guilty ***or guilty but mentally ill*** and who is without counsel, the court shall advise the defendant of his right to appeal, and if he so requests, the clerk shall prepare and file forthwith a notice of appeal on his behalf.

3. A notice of appeal must be signed:

(a) By the appellant or appellant's attorney; or

(b) By the clerk if prepared by him.

Sec. 29. **Chapter 178 of NRS is hereby amended by adding thereto the provisions set forth as sections 30 to 39, inclusive, of this act.**

Sec. 30. As used in sections 30 to 39, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 31 to 35, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 31. "Administrator" means the Administrator of the Division.

Sec. 32. "Division" means the Division of Mental Health and Developmental Services of the Department of Health and Human Services.

Sec. 33. "Division facility" has the meaning ascribed to it in NRS 433.094.

Sec. 34. "Mental disorder" means a mental illness that results from a psychiatric or neurological disorder that so substantially impairs the

mental or emotional functioning of the person as to make care or treatment necessary or advisable for the welfare of the person or for the safety of the person or property of another and includes, without limitation, mental retardation and related conditions.

Sec. 35. "Mentally ill person" means a person who has a mental disorder.

Sec. 36. 1. The Administrator or his designee shall keep each mentally ill person committed to his custody pursuant to NRS 175.539 under observation.

2. A person committed to the custody of the Administrator pursuant to NRS 175.539 is eligible for:

(a) Discharge from commitment if the person establishes by a preponderance of the evidence that he would not be a danger, as a result of any mental disorder, to himself or to the person or property of another if discharged; or

(b) Conditional release from commitment if the person establishes by a preponderance of the evidence that he would not be a danger, as a result of any mental disorder, to himself or to the person or property of another if released from commitment with conditions imposed by the court in consultation with the Division.

3. If a person who is conditionally released from the custody of the Administrator fails to comply with any condition imposed by the court, the court shall issue an order to have the person recommitted to the custody of the Administrator.

Sec. 37. 1. Except as otherwise provided in this section, a court must hold a hearing not later than 60 days after:

(a) A person is committed to the custody of the Administrator pursuant to NRS 175.539; or

(b) The Division or the person committed to the custody of the Administrator files a petition for discharge or conditional release pursuant to section 38 of this act.

2. During the hearing held pursuant to subsection 1, the court shall consider any relevant information that will enable the court to determine whether the person is eligible for discharge or conditional release pursuant to section 36 of this act. The court may postpone the hearing described in this subsection for good cause or upon agreement by the person committed to the custody of the Administrator, the court and the Division.

3. Not later than 21 days before the date of the hearing held pursuant to paragraph (a) of subsection 1 and annually thereafter, the Administrator or his designee shall prepare a written report stating whether, in his opinion, upon medical consultation, the person who was committed to the custody of the Administrator has recovered from his mental disorder or has improved to such an extent that he is no longer a mentally ill person and whether or not, in his opinion, the person should be discharged or conditionally released. If the Administrator or his designee determines that

the person has not recovered from his mental disorder or has not improved to such an extent that he is no longer a mentally ill person, the Administrator or his designee shall include in the report his opinion concerning whether:

(a) There is a substantial probability that the person may receive treatment and recover from his mental disorder or improve to such an extent that he is no longer a mentally ill person in the foreseeable future; and

(b) The person is at that time a danger to himself or to society.

4. If the opinion of the Administrator included in the report prepared pursuant to subsection 3 provides that:

(a) The person committed to his custody should not be discharged or conditionally released, the person who is committed may overcome the opinion of the Administrator by proving the elements necessary for discharge or conditional release pursuant to subsection 2 of section 36 of this act by a preponderance of the evidence.

(b) The person committed to his custody should be discharged or conditionally released, the district attorney may overcome the opinion of the Administrator by proving by a preponderance of the evidence that the person continues to be a mentally ill person.

5. Within the period prescribed in subsection 3, the Administrator or his designee shall provide a copy of the report to:

(a) The person committed to the custody of the Administrator and his attorney;

(b) The prosecuting attorney; and

(c) The court.

Sec. 38. 1. A person committed to the custody of the Administrator pursuant to NRS 175.539 may petition the court for discharge or conditional release not sooner than 1 year after the person is committed to the custody of the Administrator and not more than once each year thereafter.

2. The Division may file a petition for the discharge or conditional release of a person committed to the custody of the Administrator pursuant to NRS 175.539 at any time if the petition is accompanied by an affidavit of a physician or licensed psychologist which states that the mental disorder of the person has improved since the date of the most recent hearing concerning the discharge or conditional release of the person such that the physician or licensed psychologist recommends the discharge or conditional release of the person.

3. A person who is committed to the custody of the Administrator pursuant to NRS 175.539 may apply for discharge or conditional release pursuant to subsection 1 by:

(a) Filing a petition for discharge or conditional release with the court that ordered the person committed pursuant to NRS 175.539; and

(b) Providing a copy of the petition to the Division and the prosecuting attorney.

4. The Division may file a petition for discharge or conditional release pursuant to subsection 2 by:

(a) Filing the petition with the court that ordered the person committed to the custody of the Administrator pursuant to NRS 175.539;

(b) Including with the petition an affidavit of a physician or licensed psychologist pursuant to subsection 2; and

(c) Providing a copy of the petition to the person committed to the custody of the Administrator, his attorney and the prosecuting attorney.

Sec. 39. 1. When a person is conditionally released pursuant to sections 30 to 39, inclusive, of this act:

(a) The State and any of its agents or employees are not liable for any debts or contractual obligations, medical or otherwise, incurred or damages caused by the actions of the person; and

(b) The court shall order the restoration of full civil and legal rights as deemed necessary to facilitate the person's rehabilitation.

2. When a person is conditionally released pursuant to sections 30 to 39, inclusive, of this act, the court shall order the Division to conduct an evaluation of the person as often as is deemed necessary to determine whether the person:

(a) Has complied with the conditions of his release; or

(b) Presents a clear and present danger of harm to himself or others.

3. The court may order a person who is conditionally released pursuant to sections 30 to 39, inclusive, of this act returned to the custody of the Administrator if the court determines that the conditional release is no longer appropriate because that person:

(a) Has violated a condition of his release; or

(b) Presents a clear and present danger of harm to himself or others.

~~[Sec. 29.]~~ ***Sec. 40.*** NRS 178.388 is hereby amended to read as follows:

178.388 1. Except as otherwise provided in this title, the defendant must be present at the arraignment, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence. A corporation may appear by counsel for all purposes.

2. In prosecutions for offenses not punishable by death:

(a) The defendant's voluntary absence after the trial has been commenced in his presence must not prevent continuing the trial to and including the return of the verdict.

(b) If the defendant was present at the trial through the time he pleads guilty ***or guilty but mentally ill*** or is found guilty ***or guilty but mentally ill*** but at the time of his sentencing is incarcerated in another jurisdiction, he may waive his right to be present at the sentencing proceedings and agree to be sentenced in this State in his absence. The defendant's waiver is valid only if it is:

(1) Made knowingly, intelligently and voluntarily after consulting with an attorney licensed to practice in this State;

(2) Signed and dated by the defendant and notarized by a notary public or judicial officer; and

(3) Signed and dated by his attorney after it has been signed by the defendant and notarized.

3. In prosecutions for offenses punishable by fine or by imprisonment for not more than 1 year, or both, the court, with the written consent of the defendant, may permit arraignment, plea, trial and imposition of sentence in the defendant's absence, if the court determines that the defendant was fully aware of his applicable constitutional rights when he gave his consent.

4. The presence of the defendant is not required at the arraignment or any preceding stage if the court has provided for the use of a closed-circuit television to facilitate communication between the court and the defendant during the proceeding. If closed-circuit television is provided for, members of the news media may observe and record the proceeding from both locations unless the court specifically provides otherwise.

5. The defendant's presence is not required at the settling of jury instructions.

Sec. 41. **NRS 178.399 is hereby amended to read as follows:**

178.399 As used in NRS ~~[178.400]~~ ***178.399*** to 178.460, inclusive, unless the context otherwise requires, "treatment to competency" means treatment provided to a defendant to attempt to cause him to attain competency to stand trial or receive pronouncement of judgment.

~~[Sec. 30.]~~ ***Sec. 42.*** NRS 179.225 is hereby amended to read as follows:

179.225 1. If the punishment of the crime is the confinement of the criminal in prison, the expenses must be paid from money appropriated to the Office of the Attorney General for that purpose, upon approval by the State Board of Examiners. After the appropriation is exhausted, the expenses must be paid from the Reserve for Statutory Contingency Account upon approval by the State Board of Examiners. In all other cases, they must be paid out of the county treasury in the county wherein the crime is alleged to have been committed. The expenses are:

(a) If the prisoner is returned to this State from another state, the fees paid to the officers of the state on whose governor the requisition is made;

(b) If the prisoner is returned to this State from a foreign country or jurisdiction, the fees paid to the officers and agents of this State or the United States; or

(c) If the prisoner is temporarily returned for prosecution to this State from another state pursuant to this chapter or chapter 178 of NRS and is then returned to the sending state upon completion of the prosecution, the fees paid to the officers and agents of this State,

➥ and the necessary traveling expenses and subsistence allowances in the amounts authorized by NRS 281.160 incurred in returning the prisoner.

2. If a person is returned to this State pursuant to this chapter or chapter 178 of NRS and is convicted of, or pleads guilty ***, guilty but mentally ill*** or nolo contendere to **,** the criminal charge for which he was returned or a lesser criminal charge, the court shall conduct an investigation of the financial status of the person to determine his ability to make restitution. In conducting the investigation, the court shall determine if the person is able to pay any existing obligations for:

(a) Child support;

(b) Restitution to victims of crimes; and

(c) Any administrative assessment required to be paid pursuant to NRS 62E.270, 176.059, 176.0611, 176.0613 and 176.062.

3. If the court determines that the person is financially able to pay the obligations described in subsection 2, it shall, in addition to any other sentence it may impose, order the person to make restitution for the expenses incurred by the Attorney General or other governmental entity in returning him to this State. The court shall not order the person to make restitution if payment of restitution will prevent him from paying any existing obligations described in subsection 2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of the completion of his sentence.

4. The Attorney General may adopt regulations to carry out the provisions of this section.

~~[Sec. 31.]~~ ***Sec. 43.*** NRS 1.4675 is hereby amended to read as follows:

1.4675 1. The Commission shall suspend a justice or judge from the exercise of office with salary:

(a) While there is pending an indictment or information charging the justice or judge with a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States; or

(b) When the justice or judge has been adjudged mentally incompetent or insane.

2. The Commission may suspend a justice or judge from the exercise of office without salary if the justice or judge:

(a) Pleads guilty ***, guilty but mentally ill*** or no contest to a charge of; or

(b) Is found guilty ***or guilty but mentally ill*** of,

➥ a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States. If the conviction is later reversed, the justice or judge must be paid his salary for the period of suspension.

3. The Commission may suspend a justice or judge from the exercise of office with salary if the Commission determines, pending a final determination in a judicial disciplinary proceeding, that the justice or judge poses a substantial threat of serious harm to the public or to the administration of justice.

4. A justice or judge suspended pursuant to this section may appeal the suspension to the Supreme Court for reconsideration of the order.

5. The Commission may suspend a justice or judge pursuant to this section only in accordance with its procedural rules.

~~[Sec. 32.]~~ ***Sec. 44.*** NRS 33.400 is hereby amended to read as follows:

33.400 1. In addition to any other remedy provided by law, the parent or guardian of a child may petition any court of competent jurisdiction on behalf of the child for a temporary or extended order against a person who is 18 years of age or older and who the parent or guardian reasonably believes has committed or is committing a crime involving:

(a) Physical or mental injury to the child of a nonaccidental nature; or

(b) Sexual abuse or sexual exploitation of the child.

2. If such an order on behalf of a child is granted, the court may direct the person who allegedly committed or is committing the crime to:

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

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the child and any other person specifically named by the court, who may include, without limitation, a member of the family or the household of the child.

(c) Comply with any other restriction which the court deems necessary to protect the child or to protect any other person specifically named by the court **,** who may include, without limitation, a member of the family or the household of the child.

3. If a defendant charged with committing a crime described in subsection 1 is released from custody before trial or is found guilty ***or guilty but mentally ill*** during 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 child against whom the alleged crime was committed and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the child against whom the alleged crime was committed and any other person specifically named by the court, who may include, without limitation, a member of the family or the household of the child.

(c) Comply with any other restriction which the court deems necessary to protect the child or to protect any other person specifically named by the court **,** who may include, without limitation, a member of the family or the household of the child.

4. 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.

5. 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.

6. 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.

7. 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.

~~[Sec. 33.]~~ ***Sec. 45.*** NRS 33.440 is hereby amended to read as follows:

33.440 1. Upon the request of the parent or guardian of a child, the prosecuting attorney in any trial brought against a person for a crime described in subsection 1 of NRS 33.400 shall inform the parent or guardian of the final disposition of the case.

2. If the defendant is found guilty ***or guilty but mentally ill*** and the court issues an order or provides a condition of his sentence restricting the ability of the defendant to have contact with the child against whom the crime was committed or witnesses, the clerk of the court shall:

(a) Keep a record of the order or condition of the sentence; and

(b) Provide a certified copy of the order or condition of the sentence to the parent or guardian of the child and other persons named in the order.

~~[Sec. 34.]~~ ***Sec. 46.*** NRS 34.735 is hereby amended to read as follows:

34.735 A petition must be in substantially the following form, with appropriate modifications if the petition is filed in the Supreme Court:

Case No.
Dept. No.
IN THE ..... JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR THE COUNTY OF .....

Petitioner,
v. PETITION FOR WRIT
OF HABEAS CORPUS
(POSTCONVICTION)

Respondent.

INSTRUCTIONS:

(1) This petition must be legibly handwritten or typewritten, signed by the petitioner and verified.

(2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No

citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.

(3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.

(4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the Department of Corrections, name the warden or head of the institution. If you are not in a specific institution of the Department but within its custody, name the Director of the Department of Corrections.

(5) You must include all grounds or claims for relief which you may have regarding your conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing future petitions challenging your conviction and sentence.

(6) You must allege specific facts supporting the claims in the petition you file seeking relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you claim your counsel was ineffective.

(7) When the petition is fully completed, the original and one copy must be filed with the clerk of the state district court for the county in which you were convicted. One copy must be mailed to the respondent, one copy to the Attorney General's Office, and one copy to the district attorney of the county in which you were convicted or to the original prosecutor if you are challenging your original conviction or sentence. Copies must conform in all particulars to the original submitted for filing.

PETITION

1. Name of institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty:

2. Name and location of court which entered the judgment of conviction under attack:

3. Date of judgment of conviction:

4. Case number:

5. (a) Length of sentence:

(b) If sentence is death, state any date upon which execution is scheduled:

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion? Yes .... No ....

If "yes," list crime, case number and sentence being served at this time:

7. Nature of offense involved in conviction being challenged:

8. What was your plea? (check one)
(a) Not guilty ....
(b) Guilty ....
(c) ***Guilty but mentally ill ...***
(d) Nolo contendere ....

9. If you entered a plea of guilty ***or guilty but mentally ill*** to one count of an indictment or information, and a plea of not guilty to another count of an indictment or information, or if a plea of guilty ***or guilty but mentally ill*** was negotiated, give details:

10. If you were found guilty ***or guilty but mentally ill*** after a plea of not guilty, was the finding made by: (check one)
(a) Jury ....
(b) Judge without a jury ....

11. Did you testify at the trial? Yes .... No ....

12. Did you appeal from the judgment of conviction? Yes .... No ....

13. If you did appeal, answer the following:
(a) Name of court:
(b) Case number or citation:
(c) Result:
(d) Date of result:
(Attach copy of order or decision, if available.)

14. If you did not appeal, explain briefly why you did not:

15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? Yes .... No ....

16. If your answer to No. 15 was "yes," give the following information:
(a) (1) Name of court:
(2) Nature of proceeding:

(3) Grounds raised:

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes .... No ....
(5) Result:
(6) Date of result:
(7) If known, citations of any written opinion or date of orders entered pursuant to such result:

(b) As to any second petition, application or motion, give the same information:

(1) Name of court:

(2) Nature of proceeding:

(3) Grounds raised:

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes .... No ....

(5) Result:

(6) Date of result:

(7) If known, citations of any written opinion or date of orders entered pursuant to such result:

(c) As to any third or subsequent additional applications or motions, give the same information as above, list them on a separate sheet and attach.

(d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion?

(1) First petition, application or motion? Yes .... No ....
Citation or date of decision:

(2) Second petition, application or motion? Yes .... No .....
Citation or date of decision:

(3) Third or subsequent petitions, applications or motions? Yes .... No ....
Citation or date of decision:

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

17. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other postconviction proceeding? If so, identify:

(a) Which of the grounds is the same:

(b) The proceedings in which these grounds were raised:

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds were not so presented, and give your reasons for not presenting them. (You must relate specific facts

in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes .... No ....
If yes, state what court and the case number:

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal:

22. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack? Yes .... No ....
If yes, specify where and when it is to be served, if you know:

23. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary you may attach pages stating additional grounds and facts supporting same.

(a) Ground one:

Supporting FACTS (Tell your story briefly without citing cases or law.):

(b) Ground two:

Supporting FACTS (Tell your story briefly without citing cases or law.):

(c) Ground three:

Supporting FACTS (Tell your story briefly without citing cases or law.):

(d) Ground four:

Supporting FACTS (Tell your story briefly without citing cases or law.):

WHEREFORE, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding.

EXECUTED at ..... on the .... day of the month of .... of the year ....

Signature of petitioner

Address

Signature of attorney (if any)

Attorney for petitioner

Address

VERIFICATION

Under penalty of perjury, the undersigned declares that he is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of his own knowledge, except as to those matters stated on information and belief, and as to such matters he believes them to be true.

Petitioner

Attorney for petitioner

CERTIFICATE OF SERVICE BY MAIL

I, ..., hereby certify **,** pursuant to N.R.C.P. 5(b), that on this .... day of the month of .... of the year ...., I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS addressed to:

Respondent prison or jail official

Address

Attorney General
Heroes' Memorial Building
Capitol Complex
Carson City, Nevada 89710

District Attorney of County of Conviction

Address

Signature of Petitioner

~~[Sec. 35.]~~ ***Sec. 47.*** NRS 34.810 is hereby amended to read as follows:

34.810 1. The court shall dismiss a petition if the court determines that:

(a) The petitioner's conviction was upon a plea of guilty ***or guilty but mentally ill*** and the petition is not based upon an allegation that the plea was

involuntarily or unknowingly entered or that the plea was entered without effective assistance of counsel.

(b) The petitioner's conviction was the result of a trial and the grounds for the petition could have been:

(1) Presented to the trial court;

(2) Raised in a direct appeal or a prior petition for a writ of habeas corpus or postconviction relief; or

(3) Raised in any other proceeding that the petitioner has taken to secure relief from his conviction and sentence,

➥ unless the court finds both cause for the failure to present the grounds and actual prejudice to the petitioner.

2. A second or successive petition must be dismissed if the judge or justice determines that it fails to allege new or different grounds for relief and that the prior determination was on the merits or, if new and different grounds are alleged, the judge or justice finds that the failure of the petitioner to assert those grounds in a prior petition constituted an abuse of the writ.

3. Pursuant to subsections 1 and 2, the petitioner has the burden of pleading and proving specific facts that demonstrate:

(a) Good cause for the petitioner's failure to present the claim or for presenting the claim again; and

(b) Actual prejudice to the petitioner.

➥ The petitioner shall include in the petition all prior proceedings in which he challenged the same conviction or sentence.

4. The court may dismiss a petition that fails to include any prior proceedings of which the court has knowledge through the record of the court or through the pleadings submitted by the respondent.

~~[Sec. 36.]~~ ***Sec. 48.*** NRS 41B.070 is hereby amended to read as follows:

41B.070 "Convicted" and "conviction" mean a judgment based upon:

1. A plea of guilty ***, guilty but mentally ill*** or nolo contendere;

2. A finding of ~~[guilt]~~ ***guilty or guilty but mentally ill*** by a jury or a court sitting without a jury;

3. An adjudication of delinquency or finding of ~~[guilt]~~ ***guilty or guilty but mentally ill*** by a court having jurisdiction over juveniles; or

4. Any other admission or finding of ~~[guilt]~~ ***guilty or guilty but mentally ill*** in a criminal action or a proceeding in a court having jurisdiction over juveniles.

~~[Sec. 37.]~~ ***Sec. 49.*** NRS 48.125 is hereby amended to read as follows:

48.125 1. Evidence of a plea of guilty ~~[,]~~ ***or guilty but mentally ill,*** later withdrawn, or of an offer to plead guilty ***or guilty but mentally ill*** to the crime charged or any other crime is not admissible in a criminal proceeding involving the person who made the plea or offer.

2. Evidence of a plea of nolo contendere or of an offer to plead nolo contendere to the crime charged or any other crime is not admissible in a civil or criminal proceeding involving the person who made the plea or offer.

~~[Sec. 38.]~~ ***Sec. 50.*** NRS 50.068 is hereby amended to read as follows:

50.068 1. A defendant is not incompetent to be a witness solely by reason of the fact that he enters into an agreement with the prosecuting attorney in which he agrees to testify against another defendant in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for a recommendation of a reduced sentence.

2. The testimony of the defendant who is testifying may be admitted whether or not he has entered his plea or been sentenced pursuant to the agreement with the prosecuting attorney.

~~[Sec. 39.]~~ ***Sec. 51.*** NRS 51.295 is hereby amended to read as follows:

51.295 1. Evidence of a final judgment, entered after trial or upon a plea of guilty ~~[,]~~ ***or guilty but mentally ill,*** but not upon a plea of nolo contendere, adjudging a person guilty of a crime punishable by death or imprisonment in excess of 1 year ~~[,]~~ is not inadmissible under the hearsay rule to prove any fact essential to sustain the judgment.

2. This section does not make admissible, when offered by the State in a criminal prosecution for purposes other than impeachment, a judgment against a person other than the accused.

3. The pendency of an appeal may be shown but does not affect admissibility.

~~[Sec. 40.]~~ ***Sec. 52.*** NRS 200.485 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

➥ If the person resides more than 70 miles from the nearest location at which counseling services are available, the court may allow the person to participate in counseling sessions in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470 every other week for the number of months required pursuant to paragraph (a) or (b) so long as the number of hours of counseling is not less than 6 hours per month. If the person resides in this State but the nearest location at which counseling services are available is in another state, the court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

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

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

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

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

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

8. As used in this section:

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

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

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

~~[Sec. 41.]~~ ***Sec. 53.*** NRS 200.485 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to NRS 33.018, the court may refer the child to an agency which provides child welfare services.

If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of his ability to pay.

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

8. As used in this section:

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

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

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

~~[Sec. 42.]~~ ***Sec. 54.*** NRS 202.270 is hereby amended to read as follows:

202.270 1. A person who destroys, or attempts to destroy, with dynamite, nitroglycerine, gunpowder or other high explosive, any dwelling house or other building, knowing or having reason to believe that a human being is therein at the time, is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life without the possibility of parole;

(b) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(c) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served,

➥ in the discretion of the jury, or of the court upon a plea of guilty ~~[.]~~ ***or guilty but mentally ill.***

2. A person who conspires with others to commit the offense described in subsection 1 shall be punished in the same manner.

~~[Sec. 43.]~~ ***Sec. 55.*** NRS 202.885 is hereby amended to read as follows:

202.885 1. A person may not be prosecuted or convicted pursuant to NRS 202.882 unless a court in this State or any other jurisdiction has entered a judgment of conviction against a culpable actor for:

(a) The violent or sexual offense against the child; or

(b) Any other offense arising out of the same facts as the violent or sexual offense against the child.

2. For any violation of NRS 202.882, an indictment must be found or an information or complaint must be filed within 1 year after the date on which:

(a) A court in this State or any other jurisdiction has entered a judgment of conviction against a culpable actor as provided in subsection 1; or

(b) The violation is discovered,

➥ whichever occurs later.

3. For the purposes of this section:

(a) A court in "any other jurisdiction" includes, without limitation, a tribal court or a court of the United States or the Armed Forces of the United States.

(b) "Convicted" and "conviction" mean a judgment based upon:

(1) A plea of guilty ***, guilty but mentally ill*** or nolo contendere;

(2) A finding of ~~[guilt]~~ ***guilty or guilty but mentally ill*** by a jury or a court sitting without a jury;

(3) An adjudication of delinquency or finding of ~~[guilt]~~ ***guilty or guilty but mentally ill*** by a court having jurisdiction over juveniles; or

(4) Any other admission or finding of ~~[guilt]~~ ***guilty or guilty but mentally ill*** in a criminal action or a proceeding in a court having jurisdiction over juveniles.

(c) A court "enters" a judgment of conviction against a person on the date on which guilt is admitted, adjudicated or found, whether or not:

(1) The court has imposed a sentence, a penalty or other sanction for the conviction; or

(2) The person has exercised any right to appeal the conviction.

(d) "Culpable actor" means a person who:

(1) Causes or perpetrates an unlawful act;

(2) Aids, abets, commands, counsels, encourages, hires, induces, procures or solicits another person to cause or perpetrate an unlawful act; or

(3) Is a principal in any degree, accessory before or after the fact, accomplice or conspirator to an unlawful act.

~~[Sec. 44.]~~ ***Sec. 56.*** NRS 207.016 is hereby amended to read as follows:

207.016 1. A conviction pursuant to NRS 207.010, 207.012 or 207.014 operates only to increase, not to reduce, the sentence otherwise provided by law for the principal crime.

2. If a count pursuant to NRS 207.010, 207.012 or 207.014 is included in an information charging the primary offense, each previous conviction must be alleged in the accusatory pleading, but no such conviction may be alluded to on trial of the primary offense, nor may any allegation of the conviction be read in the presence of a jury trying the offense or a grand jury considering an indictment for the offense. A count pursuant to NRS 207.010, 207.012 or 207.014 may be separately filed after conviction of the primary offense, but if it is so filed, sentence must not be imposed, or the hearing required by subsection 3 held, until 15 days after the separate filing.

3. If a defendant charged pursuant to NRS 207.010, 207.012 or 207.014 pleads guilty ***or guilty but mentally ill*** to **,** or is found guilty ***or guilty but mentally ill*** of **,** the primary offense but denies any previous conviction charged, the court shall determine the issue of the previous conviction after hearing all relevant evidence presented on the issue by the prosecution and the defendant. At such a hearing, the defendant may not challenge the validity of a previous conviction. The court shall impose sentence:

(a) Pursuant to NRS 207.010 upon finding that the defendant has suffered previous convictions sufficient to support an adjudication of habitual criminality;

(b) Pursuant to NRS 207.012 upon finding that the defendant has suffered previous convictions sufficient to support an adjudication of habitual felon; or

(c) Pursuant to NRS 207.014 upon finding that the defendant has suffered previous convictions sufficient to support an adjudication of habitually fraudulent felon.

4. Nothing in the provisions of this section, NRS 207.010, 207.012 or 207.014 limits the prosecution in introducing evidence of prior convictions for purposes of impeachment.

5. For the purposes of NRS 207.010, 207.012 and 207.014, a certified copy of a felony conviction is prima facie evidence of conviction of a prior felony.

6. Nothing in the provisions of this section, NRS 207.010, 207.012 or 207.014 prohibits a court from imposing an adjudication of habitual criminality, adjudication of habitual felon or adjudication of habitually fraudulent felon based upon a stipulation of the parties.

~~[Sec. 45.]~~ ***Sec. 57.*** NRS 207.193 is hereby amended to read as follows:

207.193 1. Except as otherwise provided in subsection 4, if a person is convicted of coercion or attempted coercion in violation of paragraph (a) of subsection 2 of NRS 207.190, the court shall, at the request of the prosecuting attorney, conduct a separate hearing to determine whether the offense was sexually motivated. A request for such a hearing may not be submitted to the court unless the prosecuting attorney, not less than 72 hours before the commencement of the trial, files and serves upon the defendant a written notice of his intention to request such a hearing.

2. A hearing requested pursuant to subsection 1 must be conducted before:

(a) The court imposes its sentence; or

(b) A separate penalty hearing is conducted.

3. At the hearing, only evidence concerning the question of whether the offense was sexually motivated may be presented. The prosecuting attorney must prove beyond a reasonable doubt that the offense was sexually motivated.

4. A person may stipulate that his offense was sexually motivated before a hearing held pursuant to subsection 1 or as part of an agreement to plead nolo contendere ***, guilty*** or guilty ~~[.]~~ ***but mentally ill.***

5. The court shall enter in the record:

(a) Its finding from a hearing held pursuant to subsection 1; or

(b) A stipulation made pursuant to subsection 4.

6. For the purposes of this section, an offense is "sexually motivated" if one of the purposes for which the person committed the offense was his sexual gratification.

~~[Sec. 46.]~~ ***Sec. 58.*** NRS 212.189 is hereby amended to read as follows:

212.189 1. Except as otherwise provided in subsection 9, a prisoner who is in lawful custody or confinement, other than residential confinement, shall not knowingly:

(a) Store or stockpile any human excrement or bodily fluid;

(b) Sell, supply or provide any human excrement or bodily fluid to any other person;

(c) Buy, receive or acquire any human excrement or bodily fluid from any other person; or

(d) Use, propel, discharge, spread or conceal, or cause to be used, propelled, discharged, spread or concealed, any human excrement or bodily fluid:

(1) With the intent to have the excrement or bodily fluid come into physical contact with any portion of the body of an officer or employee of a prison or any other person, whether or not such physical contact actually occurs; or

(2) Under circumstances in which the excrement or bodily fluid is reasonably likely to come into physical contact with any portion of the body of an officer or employee of a prison or any other person, whether or not such physical contact actually occurs.

2. Except as otherwise provided in subsection 3, if a prisoner violates any provision of subsection 1, the prisoner 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 10 years, and may be further punished by a fine of not more than $10,000.

3. If a prisoner violates any provision of paragraph (d) of subsection 1 and, at the time of the offense, the prisoner knew that any portion of the excrement or bodily fluid involved in the offense contained a communicable disease that causes or is reasonably likely to cause substantial bodily harm, whether or not the communicable disease was transmitted to a victim as a result of the offense, the prisoner is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served,

➥ and may be further punished by a fine of not more than $50,000.

4. A sentence imposed upon a prisoner pursuant to subsection 2 or 3:

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

(b) Must run consecutively after the prisoner has served any sentences imposed upon him for the offense or offenses for which the prisoner was in lawful custody or confinement when he violated the provisions of subsection 1.

5. In addition to any other penalty, the court shall order a prisoner who violates any provision of paragraph (d) of subsection 1 to reimburse the appropriate person or governmental body for the cost of any examinations or testing:

(a) Conducted pursuant to paragraphs (a) and (b) of subsection 7; or

(b) Paid for pursuant to subparagraph (2) of paragraph (c) of subsection 7.

6. The warden, sheriff, administrator or other person responsible for administering a prison shall immediately and fully investigate any act described in subsection 1 that is reported or suspected to have been committed in the prison.

7. If there is probable cause to believe that an act described in paragraph (d) of subsection 1 has been committed in a prison:

(a) Each prisoner believed to have committed the act or to have been the bodily source of any portion of the excrement or bodily fluid involved in the act must submit to any appropriate examinations and testing to determine whether each such prisoner has any communicable disease.

(b) If possible, a sample of the excrement or bodily fluid involved in the act must be recovered and tested to determine whether any communicable disease is present in the excrement or bodily fluid.

(c) If the excrement or bodily fluid involved in the act came into physical contact with any portion of the body of an officer or employee of a prison or any other person:

(1) The results of any examinations or testing conducted pursuant to paragraphs (a) and (b) must be provided to each such officer, employee or other person; and

(2) For each such officer or employee, the person or governmental body operating the prison where the act was committed shall pay for any appropriate examinations and testing requested by the officer or employee to determine whether a communicable disease was transmitted to him as a result of the act.

(d) The results of the investigation conducted pursuant to subsection 6 and the results of any examinations or testing conducted pursuant to paragraphs (a) and (b) must be submitted to the district attorney of the county in which the act was committed or to the Office of the Attorney General for possible prosecution of each prisoner who committed the act.

8. If a prisoner is charged with committing an act described in paragraph (d) of subsection 1 and a victim or an intended victim of the act was an officer or employee of a prison, the prosecuting attorney shall not dismiss the charge in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial.

9. The provisions of this section do not apply to a prisoner who commits an act described in subsection 1 if the act:

(a) Is otherwise lawful and is authorized by the warden, sheriff, administrator or other person responsible for administering the prison, or his designee, and the prisoner performs the act in accordance with the directions or instructions given to him by that person;

(b) Involves the discharge of human excrement or bodily fluid directly from the body of the prisoner and the discharge is the direct result of a temporary or permanent injury, disease or medical condition afflicting the prisoner that prevents the prisoner from having physical control over the discharge of his own excrement or bodily fluid; or

(c) Constitutes voluntary sexual conduct with another person in violation of the provisions of NRS 212.187.

~~[Sec. 47.]~~ ***Sec. 59.*** NRS 244.3485 is hereby amended to read as follows:

244.3485 1. The board of county commissioners of each county shall, by ordinance, require each person who wishes to engage in the business of a secondhand dealer in an unincorporated area of the county to obtain a license issued by the board before he engages in the business of a secondhand dealer.

2. The ordinance must require the applicant to submit:

(a) An application for a license to the board of county commissioners in a form prescribed by the board.

(b) With his application a complete set of his fingerprints and written permission authorizing the board to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. The board of county commissioners shall not issue a license pursuant to this section to an applicant who has been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, a felony involving moral turpitude or related to the qualifications, functions or duties of a secondhand dealer.

4. The board of county commissioners may:

(a) Establish and collect a fee for the issuance or renewal of a license;

(b) Establish and collect a fee to cover the costs of the investigation of an applicant, including a fee to process the fingerprints of the applicant;

(c) Place conditions, limitations or restrictions upon the license;

(d) Establish any other requirements necessary to carry out the provisions of this section; or

(e) Enact an ordinance which covers the same or similar subject matter included in the provisions of NRS 647.140 and which provides that any person who violates any provision of that ordinance shall be punished:

(1) For the first offense, by a fine of not more than $500.

(2) For the second offense, by a fine of not more than $1,000.

(3) For the third offense, by a fine of not more than $2,000 and by revocation of the license of the secondhand dealer.

~~[Sec. 48.]~~ ***Sec. 60.*** NRS 244.3695 is hereby amended to read as follows:

244.3695 1. The board of county commissioners shall create a graffiti reward and abatement fund. The money in the fund must be used to pay a reward to a person who, in response to the offer of a reward, provides information which results in the identification, apprehension and conviction of a person who violates a county ordinance that prohibits graffiti or other defacement of property.

2. When a defendant pleads or is found guilty ***or guilty but mentally ill*** of violating a county ordinance that prohibits graffiti or other defacement of property, the court shall include an administrative assessment of $250 for each violation in addition to any other fine or penalty. The money collected must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for credit to the graffiti reward and abatement fund.

3. If sufficient money is available in the graffiti reward and abatement fund, a county law enforcement agency may offer a reward, not to exceed $1,000, for information leading to the identification, apprehension and conviction of a person who violates a county ordinance that prohibits graffiti or other defacement of property. The reward must be paid out of the graffiti reward and abatement fund upon approval of the board of county commissioners.

~~[Sec. 49.]~~ ***Sec. 61.*** NRS 268.0974 is hereby amended to read as follows:

268.0974 1. The governing body of an incorporated city in this State, whether organized pursuant to general law or special charter shall, by ordinance, require each person who wishes to engage in the business of a secondhand dealer in the incorporated city to obtain a license issued by the governing body before he engages in the business of a secondhand dealer.

2. The ordinance must require the applicant to submit:

(a) An application for a license to the governing body of the incorporated city in a form prescribed by the governing body.

(b) With his application a complete set of his fingerprints and written permission authorizing the governing body of the incorporated city to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. The governing body of the incorporated city shall not issue a license pursuant to this section to an applicant who has been convicted of, or entered

a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, a felony involving moral turpitude or related to the qualifications, functions or duties of a secondhand dealer.

4. The governing body of the incorporated city may:

(a) Establish and collect a fee for the issuance or renewal of a license;

(b) Establish and collect a fee to cover the costs of the investigation of an applicant, including a fee to process the fingerprints of the applicant;

(c) Place conditions, limitations or restrictions upon the license;

(d) Establish any other requirements necessary to carry out the provisions of this section; or

(e) Enact an ordinance which covers the same or similar subject matter included in the provisions of NRS 647.140 and which provides that any person who violates any provision of that ordinance shall be punished:

(1) For the first offense, by a fine of not more than $500.

(2) For the second offense, by a fine of not more than $1,000.

(3) For the third offense, by a fine of not more than $2,000 and by revocation of the license of the secondhand dealer.

~~[Sec. 50.]~~ ***Sec. 62.*** NRS 268.4085 is hereby amended to read as follows:

268.4085 1. The governing body of each city shall create a graffiti reward and abatement fund. The money in the fund must be used to pay a reward to a person who, in response to the offer of a reward, provides information which results in the identification, apprehension and conviction of a person who violated a city ordinance that prohibits graffiti or other defacement of property.

2. When a defendant pleads or is found guilty ***or guilty but mentally ill*** of violating a city ordinance that prohibits graffiti or other defacement of property, the court shall include an administrative assessment of $250 for each violation in addition to any other fine or penalty. The money collected must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for credit to the graffiti reward and abatement fund.

3. If sufficient money is available in the graffiti reward and abatement fund, a law enforcement agency for the city may offer a reward, not to exceed $1,000, for information leading to the identification, apprehension and conviction of a person who violates a city ordinance that prohibits graffiti or other defacement of property. The reward must be paid out of the graffiti reward and abatement fund upon approval of the governing body of the city.

~~[Sec. 51.]~~ ***Sec. 63.*** NRS 357.170 is hereby amended to read as follows:

357.170 1. An action pursuant to this chapter may not be commenced more than 3 years after the date of discovery of the fraudulent activity by the Attorney General or more than 5 years after the fraudulent activity occurred, whichever is earlier. Within those limits, an action may be based upon fraudulent activity that occurred before October 1, 1999.

2. In an action pursuant to this chapter, the standard of proof is a preponderance of the evidence. A finding of ~~[guilt]~~ ***guilty or guilty but mentally ill*** in a criminal proceeding charging false statement or fraud, whether upon a verdict of guilty ***or guilty but mentally ill*** or a plea of guilty ***, guilty but mentally ill*** or nolo contendere, estops the person found guilty ***or guilty but mentally ill*** from denying an essential element of that offense in an action pursuant to this chapter based upon the same transaction as the criminal proceeding.

~~[Sec. 52.]~~ ***Sec. 64.*** NRS 453.3363 is hereby amended to read as follows:

453.3363 1. If a person who has not previously been convicted of any offense pursuant to NRS 453.011 to 453.552, inclusive, or pursuant to any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant or hallucinogenic substances tenders a plea of guilty, ***guilty but mentally ill,*** nolo contendere or similar plea to a charge pursuant to subparagraph (1) of paragraph (a) of subsection 2 of NRS 453.3325, subsection 2 or 3 of NRS 453.336, NRS 453.411 or 454.351, or is found guilty ***or guilty but mentally ill*** of one of those charges, the court, without entering a judgment of conviction and with the consent of the accused, may suspend further proceedings and place him on probation upon terms and conditions that must include attendance and successful completion of an educational program or, in the case of a person dependent upon drugs, of a program of treatment and rehabilitation pursuant to NRS 453.580.

2. Upon violation of a term or condition, the court may enter a judgment of conviction and proceed as provided in the section pursuant to which the accused was charged. Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, upon violation of a term or condition, the court may order the person to the custody of the Department of Corrections.

3. Upon fulfillment of the terms and conditions, the court shall discharge the accused and dismiss the proceedings against him. A nonpublic record of the dismissal must be transmitted to and retained by the Division of Parole and Probation of the Department of Public Safety solely for the use of the courts in determining whether, in later proceedings, the person qualifies under this section.

4. Except as otherwise provided in subsection 5, discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the person discharged, in the contemplation of the law, to the status occupied before the arrest, indictment or information. He may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an

inquiry made of him for any purpose. Discharge and dismissal under this section may occur only once with respect to any person.

5. A professional licensing board may consider a proceeding under this section in determining suitability for a license or liability to discipline for misconduct. Such a board is entitled for those purposes to a truthful answer from the applicant or licensee concerning any such proceeding with respect to him.

~~[Sec. 53.]~~ ***Sec. 65.*** NRS 453.348 is hereby amended to read as follows:

453.348 In any proceeding brought under NRS 453.316, 453.321, 453.322, 453.333, 453.334, 453.337, 453.338 or 453.401, any previous convictions of the offender for a felony relating to controlled substances must be alleged in the indictment or information charging the primary offense, but the conviction may not be alluded to on the trial of the primary offense nor may any evidence of the previous offense be produced in the presence of the jury except as otherwise prescribed by law. If the offender pleads guilty ***or guilty but mentally ill*** to **,** or is convicted of **,** the primary offense but denies any previous conviction charged, the court shall determine the issue after hearing all relevant evidence. A certified copy of a conviction of a felony is prima facie evidence of the conviction.

~~[Sec. 54.]~~ ***Sec. 66.*** NRS 453.575 is hereby amended to read as follows:

453.575 1. If a defendant pleads guilty ***or guilty but mentally ill*** to **,** or is found guilty ***or guilty but mentally ill*** of, any violation of this chapter and an analysis of a controlled substance or other substance or drug was performed in relation to his case, the court shall include in the sentence an order that the defendant pay the sum of $60 as a fee for the analysis of the controlled substance or other substance or drug.

2. Except as otherwise provided in this subsection, any money collected for such an analysis must not be deducted from, and is in addition to, any fine otherwise imposed by the court and must be:

(a) Collected from the defendant before or at the same time that the fine is collected.

(b) Stated separately in the judgment of the court or on the court's docket.

3. The money collected pursuant to subsection 1 in any district, municipal or justice court must be paid by the clerk of the court to the county or city treasurer, as appropriate, on or before the fifth day of each month for the preceding month.

4. The board of county commissioners of each county shall by ordinance create in the county treasury a fund to be designated as the fund for forensic services. The governing body of each city shall create in the city treasury a fund to be designated as the fund for forensic services. Upon receipt, the county or city treasurer, as appropriate, shall deposit any fee for the analyses of controlled substances or other substances or drugs in the fund. The money from such deposits must be accounted for separately within the fund.

5. Except as otherwise provided in subsection 6, each month the treasurer shall, from the money credited to the fund pursuant to subsection 3, pay any amount owed for forensic services and deposit any remaining money in the county or city general fund, as appropriate.

6. In counties which do not receive forensic services under a contract with the State, the money deposited in the fund for forensic services pursuant to subsection 4 must be expended, except as otherwise provided in this subsection:

(a) To pay for the analyses of controlled substances or other substances or drugs performed in connection with criminal investigations within the county;

(b) To purchase and maintain equipment to conduct these analyses; and

(c) For the training and continuing education of the employees who conduct these analyses.

➥ Money from the fund must not be expended to cover the costs of analyses conducted by, equipment used by or training for employees of an analytical laboratory not registered with the Drug Enforcement Administration of the United States Department of Justice.

~~[Sec. 55.]~~ ***Sec. 67.*** NRS 454.358 is hereby amended to read as follows:

454.358 1. When a defendant pleads guilty ***or guilty but mentally ill*** to **,** or is found guilty ***or guilty but mentally ill*** of **,** any violation of this chapter and an analysis of a dangerous drug was performed in relation to his case, the justice or judge shall include in the sentence the sum of $50 as a fee for the analysis of the dangerous drug.

2. The money collected for such an analysis must not be deducted from the fine imposed by the justice or judge, but must be taxed against the defendant in addition to the fine. The money collected for such an analysis must be stated separately on the court's docket and must be included in the amount posted for bail. If the defendant is found not guilty or the charges are dropped, the money deposited with the court must be returned to the defendant.

3. The money collected pursuant to subsection 1 in municipal court must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month.

4. The money collected pursuant to subsection 1 in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month.

5. The board of county commissioners of each county shall by ordinance, before September 1, 1987, create in the county treasury a fund to be designated as the fund for forensic services. Upon receipt, the county treasurer shall deposit any fee for the analyses of dangerous drugs in the fund.

6. In counties which receive forensic services under a contract with the State, any money in the fund for forensic services must be paid monthly by

the county treasurer to the State Treasurer for deposit in the State General Fund, after retaining 2 percent of the money to cover his administrative expenses.

7. In counties which do not receive forensic services under a contract with the State, money in the fund for forensic services must be expended, except as otherwise provided in this subsection:

(a) To pay for the analyses of dangerous drugs performed in connection with criminal investigations within the county;

(b) To purchase and maintain equipment to conduct these analyses; and

(c) For the training and continuing education of the employees who conduct these analyses.

➥ Money from the fund must not be expended to cover the costs of analyses conducted by, equipment used by or training for employees of an analytical laboratory not registered with the Drug Enforcement Administration of the United States Department of Justice.

~~[Sec. 56.]~~ ***Sec. 68.*** NRS 483.560 is hereby amended to read as follows:

483.560 1. Except as otherwise provided in subsection 2, any person who drives a motor vehicle on a highway or on premises to which the public has access at a time when his driver's license has been cancelled, revoked or suspended is guilty of a misdemeanor.

2. Except as otherwise provided in this subsection, if the license of the person was suspended, revoked or restricted because of:

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

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

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

➥ the person shall be punished by imprisonment in jail for not less than 30 days nor more than 6 months or by serving a term of residential confinement for not less than 60 days nor more than 6 months, and shall be further punished by a fine of not less than $500 nor more than $1,000. A person who is punished pursuant to this subsection may not be granted probation, and a sentence imposed for such a violation may not be suspended. A prosecutor may not dismiss a charge of such a violation in exchange for a plea of guilty**,** ***guilty but mentally ill*** or ~~[of]~~ nolo contendere to a lesser charge or for any other reason, unless in his judgment the charge is not supported by probable cause or cannot be proved at trial. The provisions of this subsection do not apply if the period of revocation has expired but the person has not reinstated his license.

3. A term of imprisonment imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace. This discretion must be exercised after considering all the

circumstances surrounding the offense, and the family and employment of the person convicted. However, the full term of imprisonment must be served within 6 months after the date of conviction, and any segment of time the person is imprisoned must not consist of less than 24 hours.

4. Jail sentences simultaneously imposed pursuant to this section and NRS 484.3792, 484.37937 or 484.3794 must run consecutively.

5. If the Department receives a record of the conviction or punishment of any person pursuant to this section upon a charge of driving a vehicle while his license was:

(a) Suspended, the Department shall extend the period of the suspension for an additional like period.

(b) Revoked, the Department shall extend the period of ineligibility for a license, permit or privilege to drive for an additional 1 year.

(c) Restricted, the Department shall revoke his restricted license and extend the period of ineligibility for a license, permit or privilege to drive for an additional 1 year.

(d) Suspended or cancelled for an indefinite period, the Department shall suspend his license for an additional 6 months for the first violation and an additional 1 year for each subsequent violation.

6. Suspensions and revocations imposed pursuant to this section must run consecutively.

~~[Sec. 57.]~~ ***Sec. 69.*** NRS 484.3792 is hereby amended to read as follows:

484.3792 1. Unless a greater penalty is provided pursuant to NRS 484.3795 or 484.37955, and except as otherwise provided in subsection 2, a person who violates the provisions of NRS 484.379:

(a) For the first offense within 7 years, is guilty of a misdemeanor. Unless he is allowed to undergo treatment as provided in NRS 484.37937, the court shall:

(1) Except as otherwise provided in subparagraph (4) or subsection 7, order him to pay tuition for an educational course on the abuse of alcohol and controlled substances approved by the Department and complete the course within the time specified in the order, and the court shall notify the Department if he fails to complete the course within the specified time;

(2) Unless the sentence is reduced pursuant to NRS 484.37937, sentence him to imprisonment for not less than 2 days nor more than 6 months in jail, or to perform not less than 48 hours, but not more than 96 hours, of community service while dressed in distinctive garb that identifies him as having violated the provisions of NRS 484.379;

(3) Fine him not less than $400 nor more than $1,000; and

(4) If he is found to have a concentration of alcohol of 0.18 or more in his blood or breath, order him to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484.37945.

(b) For a second offense within 7 years, is guilty of a misdemeanor. Unless the sentence is reduced pursuant to NRS 484.3794, the court shall:

(1) Sentence him to:

(I) Imprisonment for not less than 10 days nor more than 6 months in jail; or

(II) Residential confinement for not less than 10 days nor more than 6 months, in the manner provided in NRS 4.376 to 4.3766, inclusive, or 5.0755 to 5.078, inclusive;

(2) Fine him not less than $750 nor more than $1,000, or order him to perform an equivalent number of hours of community service while dressed in distinctive garb that identifies him as having violated the provisions of NRS 484.379; and

(3) Order him to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484.37945.

➥ A person who willfully fails or refuses to complete successfully a term of residential confinement or a program of treatment ordered pursuant to this paragraph is guilty of a misdemeanor.

(c) For a third offense within 7 years, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and shall be further punished by a fine of not less than $2,000 nor more than $5,000. An offender so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. Unless a greater penalty is provided in NRS 484.37955, a person who has previously been convicted of:

(a) A violation of NRS 484.379 that is punishable as a felony pursuant to paragraph (c) of subsection 1;

(b) A violation of NRS 484.3795;

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

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

➥ and who violates the provisions of NRS 484.379 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and shall be further punished by a fine of not less than $2,000 nor more than $5,000. An offender so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

3. Except as otherwise provided in this subsection, an offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. An offense which is listed in

paragraphs (a) to (d), inclusive, of subsection 2 that occurred on any date preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard for the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

4. A person convicted of violating the provisions of NRS 484.379 must not be released on probation, and a sentence imposed for violating those provisions must not be suspended except, as provided in NRS 4.373, 5.055, 484.37937 and 484.3794, that portion of the sentence imposed that exceeds the mandatory minimum. A prosecuting attorney shall not dismiss a charge of violating the provisions of NRS 484.379 in exchange for a plea of guilty **,** ***guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial.

5. A term of confinement imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace, except that a person who is convicted of a second or subsequent offense within 7 years must be confined for at least one segment of not less than 48 consecutive hours. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the offender, but any sentence of 30 days or less must be served within 6 months after the date of conviction or, if the offender was sentenced pursuant to NRS 484.37937 or 484.3794 and the suspension of his sentence was revoked, within 6 months after the date of revocation. Any time for which the offender is confined must consist of not less than 24 consecutive hours.

6. Jail sentences simultaneously imposed pursuant to this section and NRS 482.456, 483.560 or 485.330 must run consecutively.

7. If the person who violated the provisions of NRS 484.379 possesses a driver's license issued by a state other than the State of Nevada and does not reside in the State of Nevada, in carrying out the provisions of subparagraph (1) of paragraph (a) of subsection 1, the court shall:

(a) Order the person to pay tuition for and submit evidence of completion of an educational course on the abuse of alcohol and controlled substances approved by a governmental agency of the state of his residence within the time specified in the order; or

(b) Order him to complete an educational course by correspondence on the abuse of alcohol and controlled substances approved by the Department within the time specified in the order,

➥ and the court shall notify the Department if the person fails to complete the assigned course within the specified time.

8. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

9. For the purpose of determining whether one offense occurs within 7 years of another offense, any period of time between the two offenses during which, for any such offense, the offender is imprisoned, serving a term of residential confinement, confined in a treatment facility, on parole or on probation must be excluded.

10. As used in this section, unless the context otherwise requires:

(a) "Concentration of alcohol of 0.18 or more in his blood or breath" means 0.18 gram or more of alcohol per 100 milliliters of the blood of a person or per 210 liters of his breath.

(b) "Offense" means:

(1) A violation of NRS 484.379 or 484.3795;

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

(3) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in subparagraph (1) or (2).

(c) "Treatment facility" has the meaning ascribed to it in NRS 484.3793.

~~[Sec. 58.]~~ ***Sec. 70.*** NRS 484.3795 is hereby amended to read as follows:

484.3795 1. Unless a greater penalty is provided pursuant to NRS 484.37955, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379,

➥ and does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle on or off the highways of this State, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years

and must be further punished by a fine of not less than $2,000 nor more than $5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 may not be suspended nor may probation be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

~~[Sec. 59.]~~ ***Sec. 71.*** NRS 484.3795 is hereby amended to read as follows:

484.3795 1. Unless a greater penalty is provided pursuant to NRS 484.37955, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.10 or more in his blood or breath;

(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.10 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379,

➥ and does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle on or off the highways of this State, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum

term of not less than 2 years and a maximum term of not more than 20 years and must be further punished by a fine of not less than $2,000 nor more than $5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 may not be suspended nor may probation be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.10 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

~~[Sec. 60.]~~ ***Sec. 72.*** NRS 484.37955 is hereby amended to read as follows:

484.37955 1. A person commits vehicular homicide if he:

(a) Drives or is in actual physical control of a vehicle on or off the highways of this State and:

(1) Is under the influence of intoxicating liquor;

(2) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(3) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his blood or breath;

(4) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(6) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379;

(b) Proximately causes the death of a person other than himself while driving or in actual physical control of a vehicle on or off the highways of this State; and

(c) Has previously been convicted of at least three offenses.

2. A person who commits vehicular homicide is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

3. A person imprisoned pursuant to subsection 2 must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

4. A prosecuting attorney shall not dismiss a charge of vehicular homicide in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 2 may not be suspended nor may probation be granted.

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

6. If the defendant was transporting a person who is less than 15 years of age in the vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

7. As used in this section, "offense" means:

(a) A violation of NRS 484.379 or 484.3795;

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

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

~~[Sec. 61.]~~ ***Sec. 73.*** NRS 484.37955 is hereby amended to read as follows:

484.37955 1. A person commits vehicular homicide if he:

(a) Drives or is in actual physical control of a vehicle on or off the highways of this State and:

(1) Is under the influence of intoxicating liquor;

(2) Has a concentration of alcohol of 0.10 or more in his blood or breath;

(3) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.10 or more in his blood or breath;

(4) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(6) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379;

(b) Proximately causes the death of a person other than himself while driving or in actual physical control of a vehicle on or off the highways of this State; and

(c) Has previously been convicted of at least three offenses.

2. A person who commits vehicular homicide is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

3. A person imprisoned pursuant to subsection 2 must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

4. A prosecuting attorney shall not dismiss a charge of vehicular homicide in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 2 may not be suspended nor may probation be granted.

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.10 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

6. If the defendant was transporting a person who is less than 15 years of age in the vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

7. As used in this section, "offense" means:

(a) A violation of NRS 484.379 or 484.3795;

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

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

~~[Sec. 62.]~~ ***Sec. 74.*** NRS 484.3797 is hereby amended to read as follows:

484.3797 1. The judge or judges in each judicial district shall cause the preparation and maintenance of a list of the panels of persons who:

(a) Have been injured or had members of their families or close friends injured or killed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955 or a law of any other jurisdiction that prohibits the same or similar conduct; and

(b) Have, by contacting the judge or judges in the district, expressed their willingness to discuss collectively the personal effect of those crimes.

➥ The list must include the name and telephone number of the person to be contacted regarding each such panel and a schedule of times and locations of the meetings of each such panel. The judge or judges shall establish, in cooperation with representatives of the members of the panels, a fee, if any, to be paid by defendants who are ordered to attend a meeting of the panel. The amount of the fee, if any, must be reasonable. The panel may not be operated for profit.

2. Except as otherwise provided in this subsection, if a defendant pleads guilty ***or guilty but mentally ill*** to **,** or is found guilty ***or guilty but mentally ill*** of **,** any violation of NRS 484.379, 484.3795 or 484.37955, the court shall, in addition to imposing any other penalties provided by law, order the defendant to:

(a) Attend, at the defendant's expense, a meeting of a panel of persons who have been injured or had members of their families or close friends injured or killed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955 or a law of any other jurisdiction that prohibits the same or similar conduct, in order to have the defendant understand the effect such a crime has on other persons; and

(b) Pay the fee, if any, established by the court pursuant to subsection 1.

➥ The court may, but is not required to, order the defendant to attend such a meeting if one is not available within 60 miles of the defendant's residence.

3. A person ordered to attend a meeting pursuant to subsection 2 shall, after attending the meeting, present evidence or other documentation satisfactory to the court that he attended the meeting and remained for its entirety.

~~[Sec. 63.]~~ ***Sec. 75.*** NRS 484.3798 is hereby amended to read as follows:

484.3798 1. If a defendant pleads guilty ***or guilty but mentally ill*** to **,** or is found guilty ***or guilty but mentally ill*** of **,** any violation of NRS 484.379, 484.3795 or 484.37955 and a chemical analysis of his blood, urine, breath or other bodily substance was conducted, the court shall, in addition to any penalty provided by law, order the defendant to pay the sum of $60 as a fee for the chemical analysis. Except as otherwise provided in this subsection, any money collected for the chemical analysis must not be deducted from, and is in addition to, any fine otherwise imposed by the court and must be:

(a) Collected from the defendant before or at the same time that the fine is collected.

(b) Stated separately in the judgment of the court or on the court's docket.

2. All money collected pursuant to subsection 1 must be paid by the clerk of the court to the county or city treasurer, as appropriate, on or before the fifth day of each month for the preceding month.

3. The treasurer shall deposit all money received by him pursuant to subsection 2 in the county or city treasury, as appropriate, for credit to the fund for forensic services created pursuant to NRS 453.575. The money must be accounted for separately within the fund.

4. Except as otherwise provided in subsection 5, each month the treasurer shall, from the money credited to the fund pursuant to subsection 3, pay any amount owed for forensic services and deposit any remaining money in the county or city general fund, as appropriate.

5. In counties that do not receive forensic services under a contract with the State, the money credited to the fund pursuant to subsection 3:

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

(1) Expended to pay for the chemical analyses performed within the county;

(2) Expended to purchase and maintain equipment to conduct such analyses;

(3) Expended for the training and continuing education of the employees who conduct such analyses; and

(4) Paid to law enforcement agencies which conduct such analyses to be used by those agencies in the manner provided in this subsection.

(b) May only be expended to cover the costs of chemical analyses conducted by, equipment used by ~~[,]~~ or training for employees of an

analytical laboratory that is approved by the Committee on Testing for Intoxication created in NRS 484.388.

~~[Sec. 64.]~~ ***Sec. 76.*** NRS 484.3945 is hereby amended to read as follows:

484.3945 1. A person required to install a device pursuant to NRS 484.3943 shall not operate a motor vehicle without a device or tamper with the device.

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

(a) Must have his driving privilege revoked in the manner set forth in subsection 4 of NRS 483.460; and

(b) Shall be:

(1) Punished by imprisonment in jail for not less than 30 days nor more than 6 months; or

(2) Sentenced to a term of not less than 60 days in residential confinement nor more than 6 months, and by a fine of not less than $500 nor more than $1,000.

➥ No person who is punished pursuant to this section may be granted probation, and no sentence imposed for such a violation may be suspended. No prosecutor may dismiss a charge of such a violation in exchange for a plea of guilty ***, guilty but mentally ill*** or ~~[of]~~ nolo contendere to a lesser charge or for any other reason unless, in his judgment, the charge is not supported by probable cause or cannot be proved at trial.

~~[Sec. 65.]~~ ***Sec. 77.*** NRS 484.777 is hereby amended to read as follows:

484.777 1. The provisions of this chapter are applicable and uniform throughout this State on all highways to which the public has a right of access or to which persons have access as invitees or licensees.

2. Unless otherwise provided by specific statute, any local authority may enact by ordinance traffic regulations which cover the same subject matter as the various sections of this chapter if the provisions of the ordinance are not in conflict with this chapter. It may also enact by ordinance regulations requiring the registration and licensing of bicycles.

3. A local authority shall not enact an ordinance:

(a) Governing the registration of vehicles and the licensing of drivers;

(b) Governing the duties and obligations of persons involved in traffic accidents, other than the duties to stop, render aid and provide necessary information; or

(c) Providing a penalty for an offense for which the penalty prescribed by this chapter is greater than that imposed for a misdemeanor.

4. No person convicted or adjudged guilty ***or guilty but mentally ill*** of a violation of a traffic ordinance may be charged or tried in any other court in this State for the same offense.

~~[Sec. 66.]~~ ***Sec. 78.*** NRS 487.650 is hereby amended to read as follows:

487.650 1. The Department may refuse to issue a license or, after notice and hearing, may suspend, revoke or refuse to renew a license to operate a body shop upon any of the following grounds:

(a) Failure of the applicant or licensee to have or maintain an established place of business in this State.

(b) Conviction of the applicant or licensee or an employee of the applicant or licensee of a felony, or of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter.

(c) Any material misstatement in the application for the license.

(d) Willful failure of the applicant or licensee to comply with the motor vehicle laws of this State and NRS 487.035, 487.610 to 487.690, inclusive, or 597.480 to 597.590, inclusive.

(e) Failure or refusal by the licensee to pay or otherwise discharge any final judgment against him arising out of the operation of the body shop.

(f) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 2.

(g) A finding of ~~[guilt]~~ ***guilty or guilty but mentally ill*** by a court of competent jurisdiction in a case involving a fraudulent inspection, purchase, sale or transfer of a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(h) An improper, careless or negligent inspection of a salvage vehicle pursuant to NRS 487.800 by the applicant or licensee or an employee of the applicant or licensee.

(i) A false statement of material fact in a certification of a salvage vehicle pursuant to NRS 487.800 or a record regarding a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

2. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a body shop, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.610 to 487.690, inclusive, or to determine the suitability of an applicant or a licensee for such licensure.

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

~~[Sec. 67.]~~ ***Sec. 79.*** NRS 488.420 is hereby amended to read as follows:

488.420 1. Unless a greater penalty is provided pursuant to NRS 488.425, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(c) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under power or sail to have a concentration of alcohol of 0.08 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or being in actual physical control of a vessel under power or sail; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 488.410,

➥ and does any act or neglects any duty imposed by law while operating or being in actual physical control of any vessel under power or sail, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and shall be further punished by a fine of not less than $2,000 nor more than $5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 must not be suspended, and probation must not be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel under power or sail, and before his blood was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. If a person less than 15 years of age was in the vessel at the time of the defendant's violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

~~[Sec. 68.]~~ ***Sec. 80.*** NRS 488.420 is hereby amended to read as follows:

488.420 1. Unless a greater penalty is provided pursuant to NRS 488.425, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.10 or more in his blood or breath;

(c) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under power or sail to have a concentration of alcohol of 0.10 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or being in actual physical control of a vessel under power or sail; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 488.410,

➥ and does any act or neglects any duty imposed by law while operating or being in actual physical control of any vessel under power or sail, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and shall be further punished by a fine of not less than $2,000 nor more than $5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 must not be suspended, and probation must not be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel under power or sail, and before his blood was tested, to cause him to have a concentration of alcohol of 0.10 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. If a person less than 15 years of age was in the vessel at the time of the defendant's violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

~~[Sec. 69.]~~ ***Sec. 81.*** NRS 488.425 is hereby amended to read as follows:

488.425 1. A person commits homicide by vessel if he:

(a) Operates or is in actual physical control of a vessel under power or sail on the waters of this State and:

(1) Is under the influence of intoxicating liquor;

(2) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(3) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under power or sail to have a concentration of alcohol of 0.08 or more in his blood or breath;

(4) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or exercising actual physical control of a vessel under power or sail; or

(6) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 488.410;

(b) Proximately causes the death of a person other than himself while operating or in actual physical control of a vessel under power or sail; and

(c) Has previously been convicted of at least three offenses.

2. A person who commits homicide by vessel is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

3. A person imprisoned pursuant to subsection 2 must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

4. A prosecuting attorney shall not dismiss a charge of homicide by vessel in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 2 may not be suspended nor may probation be granted.

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

6. If the defendant was transporting a person who is less than 15 years of age in the vessel at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

7. As used in this section, "offense" means:

(a) A violation of NRS 488.410 or 488.420;

(b) A homicide resulting from operating or being in actual physical control of a vessel while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by this section or NRS 488.410 or 488.420; or

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

~~[Sec. 70.]~~ ***Sec. 82.*** NRS 488.425 is hereby amended to read as follows:

488.425 1. A person commits homicide by vessel if he:

(a) Operates or is in actual physical control of a vessel under power or sail on the waters of this State and:

(1) Is under the influence of intoxicating liquor;

(2) Has a concentration of alcohol of 0.10 or more in his blood or breath;

(3) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under power or sail to have a concentration of alcohol of 0.10 or more in his blood or breath;

(4) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or exercising actual physical control of a vessel under power or sail; or

(6) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 488.420;

(b) Proximately causes the death of a person other than himself while operating or in actual physical control of a vessel under power or sail; and

(c) Has previously been convicted of at least three offenses.

2. A person who commits homicide by vessel is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

3. A person imprisoned pursuant to subsection 2 must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

4. A prosecuting attorney shall not dismiss a charge of homicide by vessel in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo

contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 2 may not be suspended nor may probation be granted.

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.10 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

6. If the defendant was transporting a person who is less than 15 years of age in the vessel at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

7. As used in this section, "offense" means:

(a) A violation of NRS 488.410 or 488.420;

(b) A homicide resulting from operating or being in actual physical control of a vessel while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by this section or NRS 488.410 or 488.420; or

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

~~[Sec. 71.]~~ ***Sec. 83.*** NRS 488.427 is hereby amended to read as follows:

488.427 1. Unless a greater penalty is provided pursuant to NRS 488.425, a person who violates the provisions of NRS 488.410 and who has previously been convicted of a violation of NRS 488.420 or 488.425 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct as set forth in NRS 488.420 or 488.425 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and shall be further punished by a fine of not less than $2,000 nor more than $5,000. An offender so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. The facts concerning a prior violation of NRS 488.420 or 488.425 must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing.

3. A prosecuting attorney shall not dismiss a charge of violating the provisions of NRS 488.410 against a person previously convicted of violating NRS 488.420 or 488.425 in exchange for a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a lesser charge or for any other reason

unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 must not be suspended, and probation must not be granted.

4. If a person less than 15 years of age was in the vessel at the time of the defendant's violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

~~[Sec. 72.]~~ ***Sec. 84.*** NRS 488.440 is hereby amended to read as follows:

488.440 1. If a defendant pleads guilty ***or guilty but mentally ill*** to **,** or is found guilty ***or guilty but mentally ill*** of, a violation of NRS 488.410, 488.420 or 488.425 and a chemical analysis of his blood, urine, breath or other bodily substance was conducted, the court shall, in addition to any penalty provided by law, order the defendant to pay the sum of $60 as a fee for the chemical analysis. Except as otherwise provided in this subsection, any money collected for the chemical analysis must not be deducted from, and is in addition to, any fine otherwise imposed by the court and must be:

(a) Collected from the defendant before or at the same time that the fine is collected.

(b) Stated separately in the judgment of the court or on the court's docket.

2. All money collected pursuant to subsection 1 must be paid by the clerk of the court to the county or city treasurer, as appropriate, on or before the fifth day of each month for the preceding month.

3. The treasurer shall deposit all money received by him pursuant to subsection 2 in the county or city treasury, as appropriate, for credit to the fund for forensic services created pursuant to NRS 453.575. The money must be accounted for separately within the fund.

4. Except as otherwise provided in subsection 5, each month the treasurer shall, from the money credited to the fund pursuant to subsection 3, pay any amount owed for forensic services and deposit any remaining money in the county or city general fund, as appropriate.

5. In counties that do not receive forensic services under a contract with the State, the money credited to the fund pursuant to subsection 3:

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

(1) Expended to pay for the chemical analyses performed within the county;

(2) Expended to purchase and maintain equipment to conduct such analyses;

(3) Expended for the training and continuing education of the employees who conduct such analyses; and

(4) Paid to law enforcement agencies which conduct such analyses to be used by those agencies in the manner provided in this subsection.

(b) May only be expended to cover the costs of chemical analyses conducted by, equipment used by or training for employees of an analytical laboratory that is approved by the Committee on Testing for Intoxication created in NRS 484.388.

~~[Sec. 73.]~~ ***Sec. 85.*** NRS 489.421 is hereby amended to read as follows:

489.421 The following grounds, among others, constitute grounds for disciplinary action under NRS 489.381:

1. Revocation or denial of a license issued pursuant to this chapter or an equivalent license in any other state, territory or country.

2. Failure of the licensee to maintain any other license required by any political subdivision of this State.

3. Failure to respond to a notice served by the Division as provided by law within the time specified in the notice.

4. Failure to take the corrective action required in a notice of violation issued pursuant to NRS 489.291.

5. Failure or refusing to permit access by the Administrator to documentary materials set forth in NRS 489.231.

6. Disregarding or violating any order of the Administrator, any agreement with the Division, or any provision of this chapter or any regulation adopted under it.

7. Conviction of a misdemeanor for violation of any of the provisions of this chapter.

8. Conviction of or entering a plea of guilty ***, guilty but mentally ill*** or nolo contendere to:

(a) A felony relating to the position for which the applicant has applied or the licensee has been licensed pursuant to this chapter; or

(b) A crime of moral turpitude in this State or any other state, territory or country.

9. Any other conduct that constitutes deceitful, fraudulent or dishonest dealing.

~~[Sec. 74.]~~ ***Sec. 86.*** NRS 597.1143 is hereby amended to read as follows:

597.1143 1. A supplier shall not terminate, fail to renew or substantially change the terms of a dealer agreement without good cause.

2. Except as otherwise provided in this section, a supplier may terminate or refuse to renew a dealer agreement for good cause if the supplier provides to the dealer a written notice setting forth the reasons for the termination or nonrenewal of the dealer agreement at least 180 days before the termination or nonrenewal of the dealer agreement.

3. A supplier shall include in the written notice required by subsection 2 an explanation of the deficiencies of the dealer and the manner in which those deficiencies must be corrected. If the dealer corrects the deficiencies set forth in the notice within 60 days after he receives the notice, the supplier shall not terminate or fail to renew the dealer agreement for the reasons set forth in the notice.

4. A supplier shall not terminate or refuse to renew a dealer agreement based solely on the failure of the dealer to comply with the requirements of the dealer agreement concerning the share of the market the dealer was

required to obtain unless the supplier has, for not less than 1 year, provided assistance to the dealer in the dealer's effort to obtain the required share of the market.

5. A supplier is not required to comply with the provisions of subsections 2 and 3 if the supplier terminates or refuses to renew a dealer agreement for any reason set forth in paragraphs (b) to (i), inclusive, of subsection 6.

6. As used in this section, "good cause" means:

(a) A dealer fails to comply with the terms of a dealer agreement, if the terms are not substantially different from the terms required for other dealers in this State or any other state;

(b) A closeout or sale of a substantial part of the business assets of a dealer or a commencement of the dissolution or liquidation of the business assets of the dealer;

(c) A dealer changes its principal place of business or adds other places of business without the prior approval of the supplier, which may not be unreasonably withheld;

(d) A dealer substantially defaults under a chattel mortgage or other security agreement between the dealer and the supplier;

(e) A guarantee of a present or future obligation of a dealer to the supplier is revoked or discontinued;

(f) A dealer fails to operate in the normal course of business for at least 7 consecutive days;

(g) A dealer abandons the dealership;

(h) A dealer pleads guilty ***or guilty but mentally ill*** to **,** or is convicted of **,** a felony affecting the business relationship between the dealer and supplier; or

(i) A dealer transfers a financial interest in the dealership, a person who has a substantial financial interest in the ownership or control of the dealership dies or withdraws from the dealership, or the financial interest of a partner or major shareholder in the dealership is substantially reduced.

➥ For the purposes of this section, good cause does not exist if the supplier consents to any action described in this section.

~~[Sec. 75.]~~ ***Sec. 87.*** NRS 597.155 is hereby amended to read as follows:

597.155 1. Except as otherwise provided in subsection 2, a supplier must, at least 90 days before he terminates or refuses to continue any franchise with a wholesaler or causes a wholesaler to resign from any franchise, send a notice by certified mail, return receipt requested, to the wholesaler. The notice must include:

(a) The reason for the proposed action and a description of any failure of the wholesaler to comply with the terms, provisions and conditions of the franchise alleged by the supplier pursuant to NRS 597.160; and

(b) A statement that the wholesaler may correct any such failure within the period prescribed in NRS 597.160.

2. Any action taken by a supplier pursuant to subsection 1 becomes effective on the date the wholesaler receives the notice required pursuant to subsection 1 if the wholesaler:

(a) Has had his license to sell alcoholic beverages issued pursuant to state or federal law revoked or suspended for more than 31 days;

(b) Is insolvent pursuant to 11 U.S.C. § 101;

(c) Has had an order for relief entered against him pursuant to 11 U.S.C. §§ 701 et seq.;

(d) Has had his ability to conduct business substantially affected by a liquidation or dissolution;

(e) Or any other person who has a financial interest in the wholesaler of not less than 10 percent and is active in the management of the wholesaler has been convicted of **,** or has pleaded guilty ***or guilty but mentally ill*** to **,** a felony and the supplier determines that the conviction or plea substantially and adversely affects the ability of the wholesaler to sell the products of the supplier;

(f) Has committed fraud or has made a material misrepresentation in his dealings with the supplier or the products of the supplier;

(g) Has sold alcoholic beverages which the wholesaler received from the supplier to:

(1) A retailer who the wholesaler knows or should know does not have a place of business where the retailer is entitled to sell alcoholic beverages within the marketing area of the wholesaler; or

(2) Any person who the wholesaler knows or should know sells or supplies alcoholic beverages to any retailer who does not have a place of business where the retailer is entitled to sell alcoholic beverages within the marketing area of the wholesaler;

(h) Has failed to pay for any product ordered and delivered pursuant to the provisions of an agreement between the supplier and wholesaler within 7 business days after the supplier sends to the wholesaler a written notice which includes a statement that he has failed to pay for the product and a demand for immediate payment;

(i) Has made an assignment for the benefit of creditors or a similar disposition of substantially all the assets of his franchise;

(j) Or any other person who has a financial interest in the wholesaler has:

(1) Transferred or attempted to transfer the assets of the franchise, voting stock of the wholesaler or voting stock of any parent corporation of the wholesaler; or

(2) Changed or attempted to change the beneficial ownership or control of any such entity,

➥ unless the wholesaler first notified the supplier in writing and the supplier has not unreasonably withheld his approval; or

(k) Discontinues selling the products of the supplier, unless:

(1) The discontinuance is a result of an accident which the wholesaler was unable to prevent;

(2) The wholesaler has, if applicable, taken action to correct the condition which caused the accident; and

(3) The wholesaler has notified the supplier of the accident if he has discontinued selling the products of the supplier for more than 10 days.

~~[Sec. 76.]~~ ***Sec. 88.*** NRS 597.818 is hereby amended to read as follows:

597.818 1. A person who violates any provision of NRS 597.814 is guilty of a misdemeanor.

2. If a person is found guilty ***or guilty but mentally ill*** of, or has pleaded guilty ***, guilty but mentally ill*** or nolo contendere to, violating any provision of NRS 597.814, his telephone service to which a device for automatic dialing and announcing has been connected must be suspended for a period determined by the court.

~~[Sec. 77.]~~ ***Sec. 89.*** NRS 616A.250 is hereby amended to read as follows:

616A.250 "Incarcerated" means confined in:

1. Any local detention facility, county jail, state prison, reformatory or other correctional facility as a result of a conviction or a plea of guilty ***, guilty but mentally ill*** or nolo contendere in a criminal proceeding; or

2. Any institution or facility for the mentally ill as a result of a plea of not guilty by reason of insanity in a criminal proceeding,

➥ in this State, another state or a foreign country.

~~[Sec. 78.]~~ ***Sec. 90.*** NRS 623.270 is hereby amended to read as follows:

623.270 1. The Board may place the holder of any certificate of registration issued pursuant to the provisions of this chapter on probation, publicly reprimand him, fine him not more than $10,000, suspend or revoke his license, impose the costs of investigation and prosecution upon him or take any combination of these disciplinary actions for any of the following acts:

(a) The certificate was obtained by fraud or concealment of a material fact.

(b) The holder of the certificate has been found guilty by the Board or ***found guilty or guilty but mentally ill*** by a court of justice of any fraud, deceit or concealment of a material fact in his professional practice, or has been convicted by a court of justice of a crime involving moral turpitude.

(c) The holder of the certificate has been found guilty by the Board of incompetency, negligence or gross negligence in:

(1) The practice of architecture or residential design; or

(2) His practice as a registered interior designer.

(d) The holder of a certificate has affixed his signature or seal to plans, drawings, specifications or other instruments of service which have not been prepared by him or in his office, or under his responsible control, or has permitted the use of his name to assist any person who is not a registered

architect, registered interior designer or residential designer to evade any provision of this chapter.

(e) The holder of a certificate has aided or abetted any unauthorized person to practice:

(1) Architecture or residential design; or

(2) As a registered interior designer.

(f) The holder of the certificate has violated any law, regulation or code of ethics pertaining to:

(1) The practice of architecture or residential design; or

(2) Practice as a registered interior designer.

(g) The holder of a certificate has failed to comply with an order issued by the Board or has failed to cooperate with an investigation conducted by the Board.

2. The conditions for probation imposed pursuant to the provisions of subsection 1 may include, but are not limited to:

(a) Restriction on the scope of professional practice.

(b) Peer review.

(c) Required education or counseling.

(d) Payment of restitution to each person who suffered harm or loss.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4. The Board shall not privately reprimand the holder of any certificate of registration issued pursuant to this chapter.

5. As used in this section:

(a) "Gross negligence" means conduct which demonstrates a reckless disregard of the consequences affecting the life or property of another person.

(b) "Incompetency" means conduct which, in:

(1) The practice of architecture or residential design; or

(2) Practice as a registered interior designer,

➥ demonstrates a significant lack of ability, knowledge or fitness to discharge a professional obligation.

(c) "Negligence" means a deviation from the normal standard of professional care exercised generally by other members in:

(1) The profession of architecture or residential design; or

(2) Practice as a registered interior designer.

~~[Sec. 79.]~~ ***Sec. 91.*** NRS 624.165 is hereby amended to read as follows:

624.165 1. The Board shall:

(a) Designate one or more of its employees for the investigation of constructional fraud;

(b) Cooperate with other local, state or federal investigative and law enforcement agencies, and the Attorney General;

(c) Assist the Attorney General or any official of an investigative or a law enforcement agency of this State, any other state or the Federal Government who requests assistance in investigating any act of constructional fraud; and

(d) Furnish to those officials any information concerning its investigation or report on any act of constructional fraud.

2. The Board may obtain records of a law enforcement agency or any other agency that maintains records of criminal history, including, without limitation, records of:

(a) Arrests;

(b) Guilty ***and guilty but mentally ill*** pleas;

(c) Sentencing;

(d) Probation;

(e) Parole;

(f) Bail;

(g) Complaints; and

(h) Final dispositions,

➥ for the investigation of constructional fraud.

3. For the purposes of this section, constructional fraud occurs if a person engaged in construction knowingly:

(a) Misapplies money under the circumstances described in NRS 205.310;

(b) Obtains money, property or labor by false pretense as described in NRS 205.380;

(c) Receives payments and fails to state his own true name, or states a false name, contractor's license number, address or telephone number of the person offering a service;

(d) Diverts money or commits any act of theft, forgery, fraud or embezzlement, in connection with a construction project, that violates a criminal statute of this State;

(e) Acts as a contractor without:

(1) Possessing a contractor's license issued pursuant to this chapter; or

(2) Possessing any other license required by this State or a political subdivision of this State;

(f) In any report relating to a contract for a public work, submits false information concerning a payroll to a public officer or agency; or

(g) Otherwise fails to disclose a material fact.

~~[Sec. 80.]~~ ***Sec. 92.*** NRS 624.265 is hereby amended to read as follows:

624.265 1. An applicant for a contractor's license or a licensed contractor and each officer, director, partner and associate thereof must possess good character. Lack of character may be established by showing that the applicant or licensed contractor, or any officer, director, partner or associate thereof, has:

(a) Committed any act which would be grounds for the denial, suspension or revocation of a contractor's license;

(b) A bad reputation for honesty and integrity;

(c) Entered a plea of ***guilty, guilty but mentally ill or*** nolo contendere ~~[or guilty]~~ to, been found guilty ***or guilty but mentally ill*** of ***,*** or been convicted, in this State or any other jurisdiction, of a crime arising out of, in connection

with or related to the activities of such person in such a manner as to demonstrate his unfitness to act as a contractor, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal; or

(d) Had a license revoked or suspended for reasons that would preclude the granting or renewal of a license for which the application has been made.

2. Upon the request of the Board, an applicant for a contractor's license, and any officer, director, partner or associate of the applicant, must submit to the Board completed fingerprint cards and a form authorizing an investigation of the applicant's background and the submission of his fingerprints to the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation. The fingerprint cards and authorization form submitted must be those that are provided to the applicant by the Board. The applicant's fingerprints may be taken by an agent of the Board or an agency of law enforcement.

3. The Board shall keep the results of the investigation confidential and not subject to inspection by the general public.

4. The Board shall establish by regulation the fee for processing the fingerprints to be paid by the applicant. The fee must not exceed the sum of the amounts charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing the fingerprints.

5. The Board may obtain records of a law enforcement agency or any other agency that maintains records of criminal history, including, without limitation, records of:

(a) Arrests;

(b) Guilty ***and guilty but mentally ill*** pleas;

(c) Sentencing;

(d) Probation;

(e) Parole;

(f) Bail;

(g) Complaints; and

(h) Final dispositions,

➥ for the investigation of a licensee or an applicant for a contractor's license.

~~[Sec. 81.]~~ ***Sec. 93.*** NRS 632.320 is hereby amended to read as follows:

632.320 The Board may deny, revoke or suspend any license or certificate applied for or issued pursuant to this chapter, or take other disciplinary action against a licensee or holder of a certificate, upon determining that he:

1. Is guilty of fraud or deceit in procuring or attempting to procure a license or certificate pursuant to this chapter.

2. Is guilty of any offense:

(a) Involving moral turpitude; or

(b) Related to the qualifications, functions or duties of a licensee or holder of a certificate,

➥ in which case the record of conviction is conclusive evidence thereof.

3. Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

4. Is unfit or incompetent by reason of gross negligence or recklessness in carrying out usual nursing functions.

5. Uses any controlled substance, dangerous drug as defined in chapter 454 of NRS, or intoxicating liquor to an extent or in a manner which is dangerous or injurious to any other person or which impairs his ability to conduct the practice authorized by his license or certificate.

6. Is mentally incompetent.

7. Is guilty of unprofessional conduct, which includes, but is not limited to, the following:

(a) Conviction of practicing medicine without a license in violation of chapter 630 of NRS, in which case the record of conviction is conclusive evidence thereof.

(b) Impersonating any applicant or acting as proxy for an applicant in any examination required pursuant to this chapter for the issuance of a license or certificate.

(c) Impersonating another licensed practitioner or holder of a certificate.

(d) Permitting or allowing another person to use his license or certificate to practice as a licensed practical nurse, registered nurse or nursing assistant.

(e) Repeated malpractice, which may be evidenced by claims of malpractice settled against him.

(f) Physical, verbal or psychological abuse of a patient.

(g) Conviction for the use or unlawful possession of a controlled substance or dangerous drug as defined in chapter 454 of NRS.

8. Has willfully or repeatedly violated the provisions of this chapter. The voluntary surrender of a license or certificate issued pursuant to this chapter is prima facie evidence that the licensee or certificate holder has committed or expects to commit a violation of this chapter.

9. Is guilty of aiding or abetting any person in a violation of this chapter.

10. Has falsified an entry on a patient's medical chart concerning a controlled substance.

11. Has falsified information which was given to a physician, pharmacist, podiatric physician or dentist to obtain a controlled substance.

12. Has been disciplined in another state in connection with a license to practice nursing or a certificate to practice as a nursing assistant or has committed an act in another state which would constitute a violation of this chapter.

13. Has engaged in conduct likely to deceive, defraud or endanger a patient or the general public.

14. Has willfully failed to comply with a regulation, subpoena or order of the Board.

➥ For the purposes of this section, a plea or verdict of guilty ***or guilty but mentally ill*** or a plea of nolo contendere constitutes a conviction of an

offense. The Board may take disciplinary action pending the appeal of a conviction.

~~[Sec. 82.]~~ ***Sec. 94.*** NRS 639.006 is hereby amended to read as follows:

639.006 "Conviction" means a plea or verdict of guilty ***or guilty but mentally ill*** or a conviction following a plea of nolo contendere to a charge of a felony, any offense involving moral turpitude or any violation of the provisions of this chapter or chapter 453 or 454 of NRS.

~~[Sec. 83.]~~ ***Sec. 95.*** NRS 639.500 is hereby amended to read as follows:

639.500 1. In addition to the requirements for an application set forth in NRS 639.100, each applicant for a license to engage in wholesale distribution shall submit with his application a complete set of his fingerprints and written permission authorizing the Board 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. If the applicant is a:

(a) Natural person, that person must submit his fingerprints.

(b) Partnership, each partner must submit his fingerprints.

(c) Corporation, each officer and director of the corporation must submit his fingerprints.

(d) Sole proprietorship, that sole proprietor must submit his fingerprints.

2. In addition to the requirements of subsection 1, the applicant shall submit with his application a list containing each employee, agent, independent contractor, consultant, guardian, personal representative, lender or holder of indebtedness of the applicant. The Board may require any person on the applicant's list to submit a complete set of his fingerprints to the Board if the Board determines that the person has the power to exercise significant influence over the operation of the applicant as a licensed wholesaler. The fingerprints must be submitted with written permission authorizing the Board 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. The provisions of this subsection do not apply to a:

(a) Lender or holder of indebtedness of an applicant who is a commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, personal property broker, consumer finance lender, commercial finance lender or insurer, or any other person engaged in the business of extending credit, who is regulated by an officer or agency of the State or the Federal Government.

(b) Common motor carrier or other delivery service that delivers a drug at the direction of a manufacturer.

3. The Board may issue a provisional license to an applicant pending receipt of the reports from the Federal Bureau of Investigation if the Board determines that the applicant is otherwise qualified.

4. An applicant who is issued a license by the Board shall not allow a person who is required to submit his fingerprints pursuant to subsection 2 to act in any capacity in which he exercises significant influence over the operation of the wholesaler if the:

(a) Person does not submit a complete set of his fingerprints in accordance with subsection 2; or

(b) Report of the criminal history of the person indicates that he has been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, a felony or offense involving moral turpitude or related to the qualifications, functions or duties of that person in connection with the operation of the wholesaler.

5. The Board shall not issue a license to an applicant if the requirements of this section are not satisfied.

~~[Sec. 84.]~~ ***Sec. 96.*** NRS 639.505 is hereby amended to read as follows:

639.505 1. On an annual basis, each licensed wholesaler shall submit to the Board an updated list of each employee, agent, independent contractor, consultant, guardian, personal representative, lender or holder of indebtedness of the wholesaler who is employed by or otherwise contracts with the wholesaler for the provision of services in connection with the operation of the licensee as a wholesaler. Any changes to the list must be submitted to the Board not later than 30 days after the change is made.

2. If a person identified on an updated list of the wholesaler is employed by or otherwise contracts with the wholesaler after the wholesaler is issued a license and that person did not submit his fingerprints pursuant to NRS 639.500, the Board may require that person to submit a complete set of his fingerprints to the Board if the Board determines that the person has the power to exercise significant influence over the operation of the licensee as a wholesaler. The fingerprints must be submitted within 30 days after being requested to do so by the Board and must include written permission authorizing the Board 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. The provisions of this subsection do not apply to a:

(a) Lender or holder of indebtedness of a wholesaler who is a commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, personal property broker, consumer finance lender, commercial finance lender or insurer, or any other person engaged in the business of extending credit, who is regulated by an officer or agency of the State or the Federal Government.

(b) Common motor carrier or other delivery service that delivers a drug at the direction of a manufacturer.

3. A wholesaler shall not allow a person who is required to submit his fingerprints pursuant to subsection 2 to act in any capacity in which he exercises significant influence over the operation of the wholesaler if the:

(a) Person does not submit a complete set of his fingerprints in accordance with subsection 2; or

(b) Report of the criminal history of the person indicates that he has been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, a felony or offense involving moral turpitude or related to qualifications, functions or duties of that person in connection with the operation of the wholesaler.

~~[Sec. 85.]~~ ***Sec. 97.*** NRS 645.330 is hereby amended to read as follows:

645.330 1. Except as otherwise provided by a specific statute, the Division may approve an application for a license for a person who meets all the following requirements:

(a) Has a good reputation for honesty, trustworthiness and integrity and who offers proof of those qualifications satisfactory to the Division.

(b) Has not made a false statement of material fact on his application.

(c) Is competent to transact the business of a real estate broker, broker-salesman or salesman in a manner which will safeguard the interests of the public.

(d) Has passed the examination.

(e) Has submitted all information required to complete the application.

2. The Division:

(a) May deny a license to any person who has been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, engaging in a real estate business without a license, possessing for the purpose of sale any controlled substance or any crime involving moral turpitude, in any court of competent jurisdiction in the United States or elsewhere; and

(b) Shall not issue a license to such a person until at least 3 years after:

(1) The person pays any fine or restitution ordered by the court; or

(2) The expiration of the period of the person's parole, probation or sentence,

➥ whichever is later.

3. Suspension or revocation of a license pursuant to this chapter or any prior revocation or current suspension in this or any other state, district or territory of the United States or any foreign country before the date of the application is grounds for refusal to grant a license.

4. Except as otherwise provided in NRS 645.332, a person may not be licensed as a real estate broker unless he has been actively engaged as a full-time licensed real estate broker-salesman or salesman in this State, or actively engaged as a full-time licensed real estate broker, broker-salesman or salesman in another state or the District of Columbia, for at least 2 of the 4 years immediately preceding the issuance of a broker's license.

~~[Sec. 86.]~~ ***Sec. 98.*** NRS 645.350 is hereby amended to read as follows:

645.350 1. An application for a license as a real estate broker, broker-salesman or salesman must be submitted in writing to the Division upon blanks prepared or furnished by the Division.

2. Every application for a real estate broker's, broker-salesman's or salesman's license must set forth the following information:

(a) The name, age and address of the applicant. If the applicant is a partnership or an association which is applying to do business as a real estate broker, the application must contain the name and address of each member thereof. If the application is for a corporation which is applying to do business as a real estate salesman, real estate broker-salesman or real estate broker, the application must contain the name and address of each officer and director thereof. If the applicant is a limited-liability company which is applying to do business as a real estate broker, the company's articles of organization must designate a manager, and the name and address of the manager and each member must be listed in the application.

(b) In the case of a broker, the name under which the business is to be conducted. The name is a fictitious name if it does not contain the name of the applicant or the names of the members of the applicant's company, firm, partnership or association. Except as otherwise provided in NRS 645.387, a license must not be issued under a fictitious name which includes the name of a real estate salesman or broker-salesman. A license must not be issued under the same fictitious name to more than one licensee within the State. All licensees doing business under a fictitious name shall comply with other pertinent statutory regulations regarding the use of fictitious names.

(c) In the case of a broker, the place or places, including the street number, city and county, where the business is to be conducted.

(d) The business or occupation engaged in by the applicant for at least 2 years immediately preceding the date of the application, and the location thereof.

(e) The time and place of the applicant's previous experience in the real estate business as a broker or salesman.

(f) Whether the applicant has ever been convicted of or is under indictment for a felony or has entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to a charge of felony and, if so, the nature of the felony.

(g) Whether the applicant has been convicted of or entered a plea of nolo contendere to forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, engaging in the business of selling real estate without a license or any crime involving moral turpitude.

(h) Whether the applicant has been refused a real estate broker's, broker-salesman's or salesman's license in any state, or whether his license as a broker or salesman has been revoked or suspended by any other state, district or territory of the United States or any other country.

(i) If the applicant is a member of a limited-liability company, partnership or association, or an officer of a corporation, the name and address of the

office of the limited-liability company, partnership, association or corporation of which the applicant is a member or officer.

(j) All information required to complete the application.

3. An applicant for a license as a broker-salesman or salesman shall provide a verified statement from the broker with whom he will be associated, expressing the intent of that broker to associate the applicant with him and to be responsible for the applicant's activities as a licensee.

4. If a limited-liability company, partnership or association is to do business as a real estate broker, the application for a broker's license must be verified by at least two members thereof. If a corporation is to do business as a real estate broker, the application must be verified by the president and the secretary thereof.

~~[Sec. 87.]~~ ***Sec. 99.*** NRS 645.633 is hereby amended to read as follows:

645.633 1. The Commission may take action pursuant to NRS 645.630 against any person subject to that section who is guilty of any of the following acts:

(a) Willfully using any trade name, service mark or insigne of membership in any real estate organization of which the licensee is not a member, without the legal right to do so.

(b) Violating any order of the Commission, any agreement with the Division, any of the provisions of this chapter, chapter 116, 119, 119A, 119B, 645A or 645C of NRS or any regulation adopted pursuant thereto.

(c) Paying a commission, compensation or a finder's fee to any person for performing the services of a broker, broker-salesman or salesman who has not secured his license pursuant to this chapter. This subsection does not apply to payments to a broker who is licensed in his state of residence.

(d) A conviction of, or the entry of a plea of guilty ***, guilty but mentally ill*** or nolo contendere to:

(1) A felony relating to the practice of the licensee, property manager or owner-developer; or

(2) Any crime involving fraud, deceit, misrepresentation or moral turpitude.

(e) Guaranteeing, or having authorized or permitted any person to guarantee, future profits which may result from the resale of real property.

(f) Failure to include a fixed date of expiration in any written brokerage agreement or failure to leave a copy of such a brokerage agreement or any property management agreement with the client.

(g) Accepting, giving or charging any undisclosed commission, rebate or direct profit on expenditures made for a client.

(h) Gross negligence or incompetence in performing any act for which he is required to hold a license pursuant to this chapter, chapter 119, 119A or 119B of NRS.

(i) Any other conduct which constitutes deceitful, fraudulent or dishonest dealing.

(j) Any conduct which took place before he became licensed which was in fact unknown to the Division and which would have been grounds for denial of a license had the Division been aware of the conduct.

(k) Knowingly permitting any person whose license has been revoked or suspended to act as a real estate broker, broker-salesman or salesman, with or on behalf of the licensee.

(l) Recording or causing to be recorded a claim pursuant to the provisions of NRS 645.8701 to 645.8811, inclusive, that is determined by a district court to be frivolous and made without reasonable cause pursuant to NRS 645.8791.

2. The Commission may take action pursuant to NRS 645.630 against a person who is subject to that section for the suspension or revocation of a real estate broker's, broker-salesman's or salesman's license issued to him by any other jurisdiction.

3. The Commission may take action pursuant to NRS 645.630 against any person who:

(a) Holds a permit to engage in property management issued pursuant to NRS 645.6052; and

(b) In connection with any property for which the person has obtained a property management agreement pursuant to NRS 645.6056:

(1) Is convicted of violating any of the provisions of NRS 202.470;

(2) Has been notified in writing by the appropriate governmental agency of a potential violation of NRS 244.360, 244.3603 or 268.4124, and has failed to inform the owner of the property of such notification; or

(3) Has been directed in writing by the owner of the property to correct a potential violation of NRS 244.360, 244.3603 or 268.4124, and has failed to correct the potential violation, if such corrective action is within the scope of the person's duties pursuant to the property management agreement.

4. The Division shall maintain a log of any complaints that it receives relating to activities for which the Commission may take action against a person holding a permit to engage in property management pursuant to subsection 3.

5. On or before February 1 of each odd-numbered year, the Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Division pursuant to subsection 4; and

(b) Any disciplinary actions taken by the Commission pursuant to subsection 3.

~~[Sec. 88.]~~ ***Sec. 100.*** NRS 645C.290 is hereby amended to read as follows:

645C.290 An application for a certificate or license must be in writing upon a form prepared and furnished by the Division. The application must include the following information:

1. The name, age and address of the applicant.

2. The place or places, including the street number, city and county, where the applicant intends to conduct business as an appraiser.

3. The business, occupation or other employment of the applicant during the 5 years immediately preceding the date of the application, and the location thereof.

4. The periods during which, and the locations where, he gained his experience as an intern.

5. Whether the applicant has ever been convicted of, is under indictment for, or has entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to:

(a) A felony and, if so, the nature of the felony.

(b) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

6. Whether the applicant has ever been refused a certificate, license or permit to act as an appraiser, or has ever had such a certificate, license or permit suspended or revoked, in any other jurisdiction.

7. If the applicant is a member of a partnership or association or is an officer of a corporation, the name and address of the principal office of the partnership, association or corporation.

8. Any other information the Division requires.

~~[Sec. 89.]~~ ***Sec. 101.*** NRS 645C.320 is hereby amended to read as follows:

645C.320 1. The Administrator shall issue a certificate or license, as appropriate, to any person:

(a) Of good moral character, honesty and integrity;

(b) Who meets the educational requirements and has the experience prescribed in NRS 645C.330 or any regulation adopted pursuant to that section;

(c) Who, except as otherwise provided in NRS 645C.360, has satisfactorily passed a written examination approved by the Commission; and

(d) Who submits all information required to complete an application for a certificate or license.

2. The Administrator may deny an application for a certificate or license to any person who:

(a) Has been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

(b) Makes a false statement of a material fact on his application; or

(c) Has had a certificate, license or registration card suspended or revoked pursuant to this chapter, or a certificate, license or permit to act as an appraiser suspended or revoked in any other jurisdiction, within the 10 years immediately preceding the date of his application.

~~[Sec. 90.]~~ ***Sec. 102.*** NRS 645D.170 is hereby amended to read as follows:

645D.170 An application for a certificate must be in writing upon a form prepared and furnished by the Division. The application must include the following information:

1. The name, age and address of the applicant.

2. The place or places, including the street number, city and county, at which the applicant intends to maintain an office to conduct business as an inspector.

3. The business, occupation or other employment of the applicant during the 5 years immediately preceding the date of the application, and the location thereof.

4. The applicant's education and experience to qualify for a certificate.

5. Whether the applicant has ever been convicted of, is under indictment for, or has entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to:

(a) A felony ~~[,]~~ and **,** if so, the nature of the felony.

(b) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

6. If the applicant is a member of a partnership or association or is an officer of a corporation, the name and address of the principal office of the partnership, association or corporation.

7. Any other information relating to the qualifications or background of the applicant that the Division requires.

8. All other information required to complete the application.

~~[Sec. 91.]~~ ***Sec. 103.*** NRS 645D.200 is hereby amended to read as follows:

645D.200 1. The Administrator shall issue a certificate to any person who:

(a) Is of good moral character, honesty and integrity;

(b) Has the education and experience prescribed in the regulations adopted pursuant to NRS 645D.120;

(c) Has submitted proof that he or his employer holds a policy of insurance that complies with the requirements of subsection 1 of NRS 645D.190; and

(d) Has submitted all information required to complete an application for a certificate.

2. The Administrator may deny an application for a certificate to any person who:

(a) Has been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

(b) Makes a false statement of a material fact on his application;

(c) Has had a certificate suspended or revoked pursuant to this chapter within the 10 years immediately preceding the date of his application; or

(d) Has not submitted proof that he or his employer holds a policy of insurance that complies with the requirements of subsection 1 of NRS 645D.190.

~~[Sec. 92.]~~ ***Sec. 104.*** NRS 683A.0892 is hereby amended to read as follows:

683A.0892 1. The Commissioner:

(a) Shall suspend or revoke the certificate of registration of an administrator if the Commissioner has determined, after notice and a hearing, that the administrator:

(1) Is in an unsound financial condition;

(2) Uses methods or practices in the conduct of his business that are hazardous or injurious to insured persons or members of the general public; or

(3) Has failed to pay any judgment against him in this State within 60 days after the judgment became final.

(b) May suspend or revoke the certificate of registration of an administrator if the Commissioner determines, after notice and a hearing, that the administrator:

(1) Has willfully violated or failed to comply with any provision of this Code, any regulation adopted pursuant to this Code or any order of the Commissioner;

(2) Has refused to be examined by the Commissioner or has refused to produce accounts, records or files for examination upon the request of the Commissioner;

(3) Has, without just cause, refused to pay claims or perform services pursuant to his contracts or has, without just cause, caused persons to accept less than the amount of money owed to them pursuant to the contracts, or has caused persons to employ an attorney or bring a civil action against him to receive full payment or settlement of claims;

(4) Is affiliated with, managed by or owned by another administrator or an insurer who transacts insurance in this State without a certificate of authority or certificate of registration;

(5) Fails to comply with any of the requirements for a certificate of registration;

(6) Has been convicted of **,** or has entered a plea of guilty **,** ***guilty but mentally ill*** or nolo contendere to **,** a felony, whether or not adjudication was withheld;

(7) Has had his authority to act as an administrator in another state limited, suspended or revoked; or

(8) Has failed to file an annual report in accordance with NRS 683A.08528.

(c) May suspend or revoke the certificate of registration of an administrator if the Commissioner determines, after notice and a hearing, that a responsible person:

(1) Has refused to provide any information relating to the administrator's affairs or refused to perform any other legal obligation relating to an examination upon request by the Commissioner; or

(2) Has been convicted of **,** or has entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to **,** a felony committed on or after October 1, 2003, whether or not adjudication was withheld.

(d) May, upon notice to the administrator, suspend the certificate of registration of the administrator pending a hearing if:

(1) The administrator is impaired or insolvent;

(2) A proceeding for receivership, conservatorship or rehabilitation has been commenced against the administrator in any state; or

(3) The financial condition or the business practices of the administrator represent an imminent threat to the public health, safety or welfare of the residents of this State.

(e) May, in addition to or in lieu of the suspension or revocation of the certificate of registration of the administrator, impose a fine of $2,000 for each act or violation.

2. As used in this section, "responsible person" means any person who is responsible for or controls or is authorized to control or advise the affairs of an administrator, including, without limitation:

(a) A member of the board of directors, board of trustees, executive committee or other governing board or committee of the administrator;

(b) The president, vice president, chief executive officer, chief operating officer or any other principal officer of an administrator, if the administrator is a corporation;

(c) A partner or member of the administrator, if the administrator is a partnership, association or limited-liability company; and

(d) Any shareholder or member of the administrator who directly or indirectly holds 10 percent or more of the voting stock, voting securities or voting interest of the administrator.

~~[Sec. 93.]~~ ***Sec. 105.*** NRS 684A.070 is hereby amended to read as follows:

684A.070 1. For the protection of the people of this State, the Commissioner may not issue or continue any license as an adjuster except in compliance with the provisions of this chapter. Any person for whom a license is issued or continued must:

(a) Be at least 18 years of age;

(b) Except as otherwise provided in subsection 2, be a resident of this State, and have resided therein for at least 90 days before his application for the license;

(c) Be competent, trustworthy, financially responsible and of good reputation;

(d) Never have been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

(e) Have had at least 2 years' recent experience with respect to the handling of loss claims of sufficient character reasonably to enable him to fulfill the responsibilities of an adjuster;

(f) Pass all examinations required under this chapter; and

(g) Not be concurrently licensed as a producer of insurance for property, casualty or surety or a surplus lines broker, except as a bail agent.

2. The Commissioner may waive the residency requirement set forth in paragraph (b) of subsection 1 if the applicant is:

(a) An adjuster licensed under the laws of another state who has been brought to this State by a firm or corporation with whom he is employed that is licensed as an adjuster in this State to fill a vacancy in the firm or corporation in this State;

(b) An adjuster licensed in an adjoining state whose principal place of business is located within 50 miles from the boundary of this State; or

(c) An adjuster who is applying for a limited license pursuant to NRS 684A.155.

3. A conviction of, or plea of guilty ***, guilty but mentally ill*** or nolo contendere by, an applicant or licensee for any crime listed in paragraph (d) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend, revoke or limit the license of an adjuster pursuant to NRS 684A.210.

~~[Sec. 94.]~~ ***Sec. 106.*** NRS 686A.292 is hereby amended to read as follows:

686A.292 1. A court may, in addition to imposing the penalties set forth in NRS 193.130, order a person who is convicted of, or who pleads guilty ***, guilty but mentally ill*** or nolo contendere to, insurance fraud to pay:

(a) Court costs; and

(b) The cost of the investigation and prosecution of the insurance fraud for which the person was convicted or to which the person pleaded guilty ***, guilty but mentally ill*** or nolo contendere.

2. Any money received by the Attorney General pursuant to paragraph (b) of subsection 1 must be accounted for separately and used to pay the expenses of the Fraud Control Unit for Insurance established pursuant to NRS 228.412, and is hereby authorized for expenditure for that purpose. The money in the account does not revert to the State General Fund at the end of any fiscal year and must be carried forward to the next fiscal year.

3. An insurer or other organization, or any other person, subject to the jurisdiction of the Commissioner pursuant to this title shall be deemed to be a victim for the purposes of restitution in a case that involves insurance fraud or that is related to a claim of insurance fraud.

~~[Sec. 95.]~~ ***Sec. 107.*** NRS 686A.295 is hereby amended to read as follows:

686A.295 If a person who is licensed or registered under the laws of the State of Nevada to engage in a business or profession is convicted of **,** or pleads guilty ***or guilty but mentally ill*** to **,** engaging in an act of insurance fraud, the Commissioner and the Attorney General shall forward to each agency by which the convicted person is licensed or registered a copy of the conviction or plea and all supporting evidence of the act of insurance fraud. An agency that receives information from the Commissioner and Attorney General pursuant to this section shall, not later than 1 year after the date on which it receives the information, submit a report which sets forth the action taken by the agency against the convicted person, including, but not limited to, the revocation or suspension of the license or any other disciplinary action, to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

~~[Sec. 96.]~~ ***Sec. 108.*** NRS 688C.210 is hereby amended to read as follows:

688C.210 After notice, and after a hearing if requested, the Commissioner may suspend, revoke, refuse to issue or refuse to renew a license under this chapter if he finds that:

1. There was material misrepresentation in the application for the license;
2. The licensee or an officer, partner, member or significant managerial employee has been convicted of fraudulent or dishonest practices, is subject to a final administrative action for disqualification, or is otherwise shown to be untrustworthy or incompetent;
3. A provider of viatical settlements has engaged in a pattern of unreasonable payments to viators;
4. The applicant or licensee has been found guilty ***or guilty but mentally ill*** of, or pleaded guilty ***, guilty but mentally ill*** or nolo contendere to, a felony or a misdemeanor involving fraud, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude, whether or not a judgment of conviction has been entered by the court;
5. A provider of viatical settlements has entered into a viatical settlement in a form not approved pursuant to NRS 688C.220;
6. A provider of viatical settlements has failed to honor obligations of a viatical settlement;
7. The licensee no longer meets a requirement for initial licensure;
8. A provider of viatical settlements has assigned, transferred or pledged a viaticated policy to a person other than another provider licensed under this chapter, a purchaser of the viatical settlement, a special organization or a trust for a related provider;
9. The applicant or licensee has provided materially untrue information to an insurer that issued a policy that is the subject of a viatical settlement;

10. The applicant or licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; or

11. The applicant or licensee has violated a provision of this chapter.

~~[Sec. 97.]~~ ***Sec. 109.*** NRS 689.235 is hereby amended to read as follows:

689.235 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner;

(b) Must have a good business and personal reputation; and

(c) Must not have been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number and personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of the fingerprints of the applicant and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the statement required pursuant to NRS 689.258.

(f) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable.

3. A conviction of, or plea of guilty ***, guilty but mentally ill*** or nolo contendere by, an applicant or licensee for any crime listed in paragraph (c) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.265.

~~[Sec. 98.]~~ ***Sec. 110.*** NRS 689.235 is hereby amended to read as follows:

689.235 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner;

(b) Must have a good business and personal reputation; and

(c) Must not have been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of his fingerprints and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable.

3. A conviction of, or plea of guilty, ***guilty but mentally ill*** or nolo contendere by, an applicant or licensee for any crime listed in paragraph (c) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.265.

~~[Sec. 99.]~~ ***Sec. 111.*** NRS 689.520 is hereby amended to read as follows:

689.520 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner; and

(b) Must not have been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number, personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of fingerprints and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the statement required pursuant to NRS 689.258.

(f) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable.

3. A conviction of, or plea of guilty ***, guilty but mentally ill*** or nolo contendere by, an applicant or licensee for any crime listed in paragraph (b)

of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.535.

~~[Sec. 100.]~~ ***Sec. 112.*** NRS 689.520 is hereby amended to read as follows:

689.520 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner; and

(b) Must not have been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of fingerprints and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable.

3. A conviction of, or plea of guilty, ***guilty but mentally ill*** or nolo contendere by, an applicant or licensee for any crime listed in paragraph (b) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.535.

~~[Sec. 101.]~~ ***Sec. 113.*** NRS 690B.029 is hereby amended to read as follows:

690B.029 1. A policy of insurance against liability arising out of the ownership, maintenance or use of a motor vehicle delivered or issued for delivery in this State to a person who is 55 years of age or older must contain a provision for the reduction in the premiums for 3-year periods if the insured:

(a) Successfully completes, after attaining 55 years of age and every 3 years thereafter, a course of traffic safety approved by the Department of Motor Vehicles; and

(b) For the 3-year period before completing the course of traffic safety and each 3-year period thereafter:

(1) Is not involved in an accident involving a motor vehicle for which the insured is at fault;

(2) Maintains a driving record free of violations; and

(3) Has not been convicted of **,** or entered a plea of guilty **,** ***guilty but mentally ill*** or nolo contendere to **,** a moving traffic violation or an offense involving:

(I) The operation of a motor vehicle while under the influence of intoxicating liquor or a controlled substance; or

(II) Any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955 or a law of any other jurisdiction that prohibits the same or similar conduct.

2. The reduction in the premiums provided for in subsection 1 must be based on the actuarial and loss experience data available to each insurer and must be approved by the Commissioner. Each reduction must be calculated based on the amount of the premium before any reduction in that premium is made pursuant to this section, and not on the amount of the premium once it has been reduced.

3. A course of traffic safety that an insured is required to complete as the result of moving traffic violations must not be used as the basis for a reduction in premiums pursuant to this section.

4. The organization that offers a course of traffic safety approved by the Department of Motor Vehicles shall issue a certificate to each person who successfully completes the course. A person must use the certificate to qualify for the reduction in the premiums pursuant to this section.

5. The Commissioner shall review and approve or disapprove a policy of insurance that offers a reduction in the premiums pursuant to subsection 1. An insurer must receive written approval from the Commissioner before delivering or issuing a policy with a provision containing such a reduction.

~~[Sec. 102.]~~ ***Sec. 114.*** NRS 692A.105 is hereby amended to read as follows:

692A.105 1. The Commissioner may refuse to license any title agent or escrow officer or may suspend or revoke any license or impose a fine of not more than $500 for each violation by entering an order to that effect, with his findings in respect thereto, if **,** upon a hearing, it is determined that the applicant or licensee:

(a) In the case of a title agent, is insolvent or in such a financial condition that he cannot continue in business with safety to his customers;

(b) Has violated any provision of this chapter or any regulation adopted pursuant thereto or has aided and abetted another to do so;

(c) Has committed fraud in connection with any transaction governed by this chapter;

(d) Has intentionally or knowingly made any misrepresentation or false statement to, or concealed any essential or material fact known to him from, any principal or designated agent of the principal in the course of the escrow business;

(e) Has intentionally or knowingly made or caused to be made to the Commissioner any false representation of a material fact or has suppressed or

withheld from him any information which the applicant or licensee possesses;

(f) Has failed without reasonable cause to furnish to the parties of an escrow their respective statements of the settlement within a reasonable time after the close of escrow;

(g) Has failed without reasonable cause to deliver, within a reasonable time after the close of escrow, to the respective parties of an escrow transaction any money, documents or other properties held in escrow in violation of the provisions of the escrow instructions;

(h) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter;

(i) Has been convicted of a felony relating to the practice of title agents or any misdemeanor of which an essential element is fraud;

(j) In the case of a title agent, has failed to maintain complete and accurate records of all transactions within the last 7 years;

(k) Has commingled the money of other persons with his own or converted the money of other persons to his own use;

(l) Has failed, before the close of escrow, to obtain written instructions concerning any essential or material fact or intentionally failed to follow the written instructions which have been agreed upon by the parties and accepted by the holder of the escrow;

(m) Has failed to disclose in writing that he is acting in the dual capacity of escrow agent or agency and undisclosed principal in any transaction;

(n) In the case of an escrow officer, has been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, any crime involving moral turpitude; or

(o) Has failed to obtain and maintain a copy of the executed agreement or contract that establishes the conditions for the sale of real property.

2. It is sufficient cause for the imposition of a fine or the refusal, suspension or revocation of the license of a partnership, corporation or any other association if any member of the partnership or any officer or director of the corporation or association has been guilty of any act or omission directly arising from the business activities of a title agent which would be cause for such action had the applicant or licensee been a natural person.

3. The Commissioner may suspend or revoke the license of a title agent, or impose a fine, if the Commissioner finds that the title agent:

(a) Failed to maintain adequate supervision of an escrow officer or title agent he has appointed or employed.

(b) Instructed an escrow officer to commit an act which would be cause for the revocation of the escrow officer's license and the escrow officer committed the act. An escrow officer is not subject to disciplinary action for committing such an act under instruction by the title agent.

4. The Commissioner may refuse to issue a license to any person who, within 10 years before the date of applying for a current license, has had suspended or revoked a license issued pursuant to this chapter or a comparable license issued by any other state, district or territory of the United States or any foreign country.

~~[Sec. 103.]~~ ***Sec. 115.*** NRS 697.150 is hereby amended to read as follows:

697.150 1. Except as otherwise provided in subsection 2, a person is entitled to receive, renew or hold a license as a bail agent if he:

(a) Is a resident of this State and has resided in this State for not less than 1 year immediately preceding the date of the application for the license.

(b) Is a natural person not less than 18 years of age.

(c) Has been appointed as a bail agent by an authorized surety insurer, subject to the issuance of the license.

(d) Is competent, trustworthy and financially responsible.

(e) Has passed any written examination required under this chapter.

(f) Has filed the bond required by NRS 697.190.

(g) Has, on or after July 1, 1999, successfully completed a 6-hour course of instruction in bail bonds that is:

(1) Offered by a state or national organization of bail agents or another organization that administers training programs for bail agents; and

(2) Approved by the Commissioner.

2. A person is not entitled to receive, renew or hold a license as a bail agent if he has been convicted of, or entered a plea of guilty ***, guilty but mentally ill*** or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude. A conviction of, or plea of guilty ***, guilty but mentally ill*** or nolo contendere by, an applicant or licensee for any crime listed in this subsection is a sufficient ground for the Commissioner to deny a license to the applicant or to suspend or revoke the license of the agent.

Sec. 116. **The amendatory provisions of sections 14.5, 30 to 39, inclusive, and 41 of this act concerning the discharge or conditional release of a person committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services pursuant to NRS 175.539 apply to any such person who is in the custody of the Administrator on or after October 1, 2007.**

~~[Sec. 104.]~~ ***Sec. 117.*** 1. This section and sections 1 to ~~[40,]~~ **52,** inclusive, ~~[42 to 58, inclusive, 60, 62 to 67, inclusive, 69, 71 to 97,]~~ **54 to 70,** inclusive, ~~[99, 101, 102 and 103]~~ **72, 74 to 79, inclusive, 81, 83 to 109, inclusive, 111 and 113 to 116, inclusive,** of this act become effective on October 1, 2007.

2. Section ~~[40]~~ **52** of this act expires by limitation on June 30, 2009.

3. Sections ~~[58, 60, 67 and 69]~~ **70, 72, 79 and 81** 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 ~~[97]~~ **109** and ~~[99]~~ **111** 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.

5. Section ~~[41]~~ **53** of this act becomes effective on July 1, 2009.

6. Sections ~~[59, 61, 68 and 70]~~ **71, 73, 80 and 82** 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.

7. Sections ~~[98]~~ **110** and ~~[100]~~ **112** of this act become 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 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 Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 193.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 364.

The following Senate amendment was read:

Amendment No. 756.

SUMMARY—Revises certain provisions relating to ~~[the use of]~~ **information provided to** a grand jury. (BDR 14-1303)

AN ACT relating to criminal procedure; ~~[prohibiting the use of a grand jury in certain circumstances;]~~ **authorizing a defendant to submit a statement concerning the results of a preliminary hearing to a grand jury;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[This bill expands the existing limitations on the use of a grand jury so that a district attorney is also prohibited from seeking the indictment of a person if the evidence presented by the district attorney during the preliminary hearing was insufficient to hold the person for trial, unless substantial evidence is discovered that was not available at the time of the preliminary hearing. (NRS 172.107)]~~ **This bill authorizes a defendant to submit a statement to a grand jury providing whether a preliminary hearing was held and, if so, that the evidence presented was considered insufficient to warrant holding the defendant for trial. (NRS 172.145)**

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

Section 1. ~~[NRS 172.107 is hereby amended to read as follows:~~

~~172.107 A district attorney shall not use a grand jury to :~~

~~*1. Seek the indictment of a person if the evidence presented by the district attorney during a preliminary examination is insufficient to warrant holding the person for trial, unless substantial evidence that was not available at the time of the preliminary examination is discovered; or*~~

~~2. Discover tangible, documentary or testimonial evidence to assist in the prosecution of a defendant who has already been charged with the public offense by indictment or information.]~~ **(Deleted by amendment.)**

Sec. 2. **NRS 172.145 is hereby amended to read as follows:**

172.145 1. The grand jury is not bound to hear evidence for the defendant ~~[.]~~ ***, except that the defendant is entitled to submit a statement which the grand jury must receive providing whether a preliminary hearing was held concerning the matter and, if so, that the evidence presented was considered insufficient to warrant holding the defendant for trial.*** It is their duty, however, to weigh all evidence submitted to them, and when they have reason to believe that other evidence within their reach will explain away the charge, they shall order that evidence to be produced, and for that purpose may require the district attorney to issue process for the witnesses.

2. If the district attorney is aware of any evidence which will explain away the charge, he shall submit it to the grand jury.

3. The grand jury may invite any person, without process, to appear before the grand jury to testify.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 364.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 396.

The following Senate amendment was read:

Amendment No. 910.

AN ACT relating to common-interest communities; requiring a member of an executive board who stands to profit personally from a matter before the board to disclose and abstain from voting on the matter; ~~[prohibiting the use of delegates or representatives to exercise the voting rights of units' owners in the election or removal of a member of the executive board; allowing the use of delegates or representatives to exercise the voting rights of owners of certain time shares;]~~ prohibiting an association in a common-interest community from imposing an assessment against **the owners of** certain tax-exempt property; ~~[requiring the signatures of certain persons before money in the operating account of an association may be withdrawn; revising the provisions relating to foreclosure of liens against units;]~~ providing that official publications related to issues of official interest must provide equal space for opposing views and opinions; ~~[requiring applicants for a certificate for the management of a common-interest community to post certain bonds;]~~ **revising the provisions governing the regulation of certain streets in certain common-interest communities; making various other changes to the provisions governing common-interest communities;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides additional ethical requirements for members of an executive board by requiring a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter. (NRS 116.31185, 116.31187)

~~[Under existing law, a common-interest community created before January 1, 1992, and a common-interest community, with a declaration so providing, that consists of at least 1,000 units, may have the voting rights of the units' owners in the association for that common-interest community be exercised by delegates or representatives. (NRS 116.1201, 116.31105) Sections 1.3 and 3.6.3 of this bill prohibit the use of delegates or representatives to exercise the voting rights of units' owners in the election or removal of a member of the executive board. However, a master association which governs a time-share plan created pursuant to chapter 119A of NRS is allowed to continue using delegates or representatives to exercise the voting rights of owners of time shares.]~~

Section 2.5 of this bill prohibits an association from imposing an assessment against **the owner of any** property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. **Section 13 of this bill provides that this prohibition applies to such owners who are not obligated to pay assessments as of January 1, 2007.**

~~[Existing law requires certain signatures before money in the reserve account of an association may be withdrawn. (NRS 116.31153) Section 6.7 of this bill also requires certain signatures before money in the operating account of an association may be withdrawn.~~

~~Existing law provides for an association to have a lien on a unit for any construction penalty, assessment or fine imposed against the unit's owner which may later be foreclosed upon. (NRS 116.3116) Section 7.5 of this bill requires an association to obtain approval from the Commission on Common-Interest Communities before attempting to foreclose its lien. The Commission must approve the foreclosure of the lien if the association has followed certain procedures. In addition, section 8 of this bill changes existing law to provide that the sale of a unit as a result of a foreclosure of a lien is subject to an equity or right of redemption. (NRS 116.31166)]~~

Section 3 of this bill amends existing law to increase the maximum term of office for a member of an executive board from 2 years to 3 years. (NRS 116.31034)

Section 6.5 of this bill revises existing provisions relating to financial statements by allowing the Commission on Common-Interest Communities to waive the qualification requirements of auditors for certain associations. (NRS 116.31144)

Section ~~9~~ of this bill provides that if an official publication contains the views or opinions of the association concerning an issue of official interest, the official publication must, upon request, provide equal space and equivalent exposure to opposing views and opinions. ~~[If an official publication contains information concerning a civil action or claim in which the association is a party, the official publication is not required to provide equal space to opposing views and opinions.]~~ In addition, section 9 provides that if an official publication contains any mention of a candidate or ballot question, the official publication must provide equal space in the same issue to the candidate or a representative of an organization which advocates the passage or defeat of the ballot question.

~~[Existing law provides for the Commission to adopt regulations concerning the issuance of certificates for community managers. (NRS 116A.410) Section 10 of this bill provides that the regulations must: (1) require an applicant to post a bond in a form and in an amount established by regulation; and (2) adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control.]~~

Section 9.5 of this bill revises existing law by including financing as a prohibited activity for members of the executive board and officers. (NRS 116.31187)

Section 9.6 of this bill provides additional rights to units' owners by mandating notice before an association may interrupt utility service to a unit's owner. (NRS 116.345)

Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) Section 9.8 of this bill permits an association to restrict parking on such thoroughfares if the parking prohibition was a condition for approval of the subdivision's final map or included in the terms of a zoning

ordinance, permit or approval. (NRS 116.350) Section 9.8 also adds inoperable vehicles to the types of vehicles for which an association may restrict parking or storage in a common-interest community. (NRS 116.350) Finally, section 9.8 prohibits a common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.

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

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

1. A member of an executive board who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall:

~~*[1.]*~~ ***(a) Disclose the matter to the executive board; and***

~~*[2.]*~~ ***(b) Abstain from voting on any such matter.***

2. For the purposes of this section, an employee of a declarant or an affiliate of a declarant who is a member of the executive board shall not, solely by reason of such employment or affiliation, be deemed to gain any personal profit or compensation.

Sec. 1.2. **NRS 116.021 is hereby amended to read as follows:**

116.021 ***1.*** "Common-interest community" means real estate with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for real estate other than that unit. ~~["Ownership]~~

2. As used in this section, "ownership of a unit" does not include holding a leasehold interest of less than 20 years in a unit, including options to renew.

3. For the purposes of determining whether real estate is a "common-interest community" pursuant to this section, the fact that the real estate is subject to covenants, conditions or restrictions is not relevant or determinative.

Sec. 1.3. ~~[NRS 116.1201 is hereby amended to read as follows:~~

~~116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.~~

~~2. This chapter does not apply to:~~

~~(a) A limited-purpose association, except that a limited-purpose association:~~

~~(1) Shall pay the fees required pursuant to NRS 116.31155;~~

~~(2) Shall register with the Ombudsman pursuant to NRS 116.31158;~~

~~(3) Shall comply with the provisions of:~~

~~(I) NRS 116.31038, 116.31083 and 116.31152; and~~

~~(II) NRS 116.31075, if the limited-purpose association is created for a rural agricultural-residential common-interest community;~~

~~(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and~~

~~(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.~~

~~(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.~~

~~(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.~~

~~(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.~~

~~(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.~~

~~3. The provisions of this chapter do not:~~

~~(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;~~

~~(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;~~

~~(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; [or]~~

~~(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government [.]~~ ~~, *except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives; or*~~

~~*(e) Prohibit a master association which governs a time-share plan created pursuant to chapter 119A of NRS from providing for a representative form of government for the time-share plan.*~~

~~4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.~~

~~5. The Commission shall establish, by regulation:~~

~~(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and~~

~~(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.~~

~~6. As used in this section, "limited-purpose association" means an association that:~~

~~(a) Is created for the limited purpose of maintaining:~~

~~(1) The landscape of the common elements of a common-interest community;~~

~~(2) Facilities for flood control; or~~

~~(3) A rural agricultural residential common-interest community; and~~

~~(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.]~~ **(Deleted by amendment.)**

Sec. 1.7. ~~[NRS 116.1203 is hereby amended to read as follows:~~

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

~~2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, *and section 1 of this act*, and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than six units.]~~ **(Deleted by amendment.)**

Sec. 2. (Deleted by amendment.)

Sec. 2.5. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in ~~[subsection 2,]~~ ***this section,*** and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

3. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 3. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed ~~[2]~~ ***3*** years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Each person whose name is placed on the ballot as a candidate for a member of the executive board must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➥ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot in the manner established in the bylaws of the association.

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

8. The ~~*[Except as otherwise provided in NRS 116.31105, the]*~~ election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot: ~~*[in the following manner:]*~~

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United

States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 4. ~~[NRS 116.31036 is hereby amended to read as follows:~~

~~116.31036 — 1. — Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section the number of votes cast in favor of removal constitutes:~~

~~(a) At least 35 percent of the total number of voting members of the association; and~~

~~(b) At least a majority of all votes cast in that removal election.~~

~~2. —~~ [The] ~~*Except as otherwise provided in NRS 116.31105, the*~~ removal of ~~any member of the executive board must be conducted by secret written ballot.~~ [unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the removal of a member of the executive board is conducted by secret written ballot:] ~~*in the following manner:*~~

~~(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest~~

~~community or to any other mailing address designated in writing by the unit's owner.~~

~~(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.~~

~~(c) Only the secret written ballots that are returned to the association may be counted to determine the outcome.~~

~~(d) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.~~

~~(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.~~

~~3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his role as a member of the board, the association shall indemnify him for his losses or claims, and undertake all costs of defense, unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against the association, but may be recovered from persons whose activity gave rise to the damages.~~

~~4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.]~~ **(Deleted by amendment.)**

Sec. 5. ~~[NRS 116.3108 is hereby amended to read as follows:~~

~~116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.~~

~~2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least 10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the~~

~~executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal election and:~~

~~(a) The voting rights of the [units'] owners *of time shares* will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or~~

~~(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.~~

~~3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:~~

~~(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.~~

~~(b) Speak to the association or executive board, unless the executive board is meeting in executive session.~~

~~4. The agenda for a meeting of the units' owners must consist of:~~

~~(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.~~

~~(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.~~

~~(c) A period devoted to comments by units' owners and discussion of those comments. Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).~~

~~5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.~~

~~6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.~~

~~7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:~~

~~(a) The date, time and place of the meeting;~~

~~(b) The substance of all matters proposed, discussed or decided at the meeting; and~~

~~(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.~~

~~8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners.~~

~~9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.~~

~~10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.~~

~~11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.~~

~~12. As used in this section, "emergency" means any occurrence or combination of occurrences that:~~

~~(a) Could not have been reasonably foreseen;~~

~~(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;~~

~~(c) Requires the immediate attention of, and possible action by, the executive board; and~~

~~(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.~~] **(Deleted by amendment.)**

Sec. 6. ~~[NRS 116.311 is hereby amended to read as follows:~~

~~116.311 1. If only one of several owners of a unit is present at a meeting of the association, that owner is entitled to cast all the votes allocated to that unit. If more than one of the owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the owners cast the votes allocated to that unit without protest made promptly to the person presiding over the meeting by any of the other owners of the unit.~~

~~2. Except as otherwise provided in this section, votes allocated to a unit may be cast pursuant to a proxy executed by a unit's owner. A unit's owner may give a proxy only to a member of his immediate family, a tenant of the unit's owner who resides in the common-interest community, another unit's owner who resides in the common-interest community, or a delegate or representative when authorized pursuant to NRS 116.31105. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through an executed proxy. A unit's owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the association.~~

~~3. Before a vote may be cast pursuant to a proxy:~~

~~(a) The proxy must be dated.~~

~~(b) The proxy must not purport to be revocable without notice.~~

~~(c) The proxy must designate the meeting for which it is executed.~~

~~(d) The proxy must designate each specific item on the agenda of the meeting for which the unit's owner has executed the proxy, except that the unit's owner may execute the proxy without designating any specific items on the agenda of the meeting if the proxy is to be used solely for determining whether a quorum is present for the meeting. If the proxy designates one or more specific items on the agenda of the meeting for which the unit's owner has executed the proxy, the proxy must indicate, for each specific item designated in the proxy, whether the holder of the proxy must cast a vote in the affirmative or the negative on behalf of the unit's owner. If the proxy does not indicate whether the holder of the proxy must cast a vote in the affirmative or the negative for a particular item on the agenda of the meeting, the proxy must be treated, with regard to that particular item, as if the unit's owner were present but not voting on that particular item.~~

~~(e) The holder of the proxy must disclose at the beginning of the meeting for which the proxy is executed the number of proxies pursuant to which the holder will be casting votes.~~

~~4. A proxy terminates immediately after the conclusion of the meeting for which it is executed.~~

~~5.~~ [A] ~~*Except as otherwise provided in this subsection, a* vote may not be cast pursuant to a proxy for the election or removal of a member of the executive board of an association .~~ [unless] ~~*A vote may be cast pursuant to a proxy for the election or removal of a member of the executive board of a master association which governs a time-share plan created pursuant to chapter 119A of NRS if* the proxy is exercised through a delegate or representative authorized pursuant to NRS 116.31105.~~

~~6. The holder of a proxy may not cast a vote on behalf of the unit's owner who executed the proxy in a manner that is contrary to the proxy.~~

~~7. A proxy is void if the proxy or the holder of the proxy violates any provision of subsections 1 to 6, inclusive.~~

~~8. If the declaration requires that votes on specified matters affecting the common-interest community must be cast by the lessees of leased units rather than the units' owners who have leased the units:~~

~~(a) The provisions of subsections 1 to 7, inclusive, apply to the lessees as if they were the units' owners;~~

~~(b) The units' owners who have leased their units to the lessees may not cast votes on those specified matters;~~

~~(c) The lessees are entitled to notice of meetings, access to records and other rights respecting those matters as if they were the units' owners; and~~

~~(d) The units' owners must be given notice, in the manner provided in NRS 116.3108, of all meetings at which the lessees are entitled to vote.~~

~~9. If any votes are allocated to a unit that is owned by the association, those votes may not be cast, by proxy or otherwise, for any purpose.~~]

(Deleted by amendment.)

Sec. 6.3. ~~[NRS 116.31105 is hereby amended to read as follows:~~

~~116.31105 1. If the declaration so provides, in a common-interest community that consists of at least 1,000 units, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives [.] *except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.*~~

~~2. In addition to a common-interest community identified in subsection 1, if the declaration so provides, in a common-interest community created before October 1, 1999, the voting rights of the units' owners in the association for that common-interest community may be exercised by delegates or representatives [.] *except that, in the election or removal of a member of the executive board, the voting rights of the units' owners may not be exercised by delegates or representatives.*~~

~~*3. In addition to a common-interest community identified in subsections 1 and 2, if the declaration so provides, the voting rights of the owners of time shares within a time-share plan created pursuant to chapter 119A of NRS*~~

~~*which is governed by a master association may be exercised by delegates or representatives.*~~

~~*4. For the purposes of subsection 1, each unit that a declarant has reserved the right to create pursuant to NRS 116.2105 and for which developmental rights exist must be counted in determining the number of units in a common interest community.*~~

[4.] ~~*5. For the purposes of subsection 3, each time share that a developer has reserved the right to create pursuant to paragraph (g) of subsection 2 of NRS 119A.380 must be counted in determining the number of time shares in a time share plan.*~~

~~*6.* Notwithstanding any provision in the declaration, the election of any delegate or representative must be conducted by secret written ballot.~~

[5.] ~~*7.* When an election of a delegate or representative is conducted by secret written ballot:~~

~~(a) The secretary or other officer of the association specified in the bylaws of the association shall cause a secret written ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common interest community or to any other mailing address designated in writing by the unit's owner.~~

~~(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.~~

~~(c) Only the secret written ballots that are returned to the association in the manner prescribed on the ballot may be counted to determine the outcome of the election.~~

~~(d) The secret written ballots must be opened and counted at a meeting called for the purpose of electing delegates or representatives. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.~~

~~(e) A candidate for delegate or representative may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association in the manner prescribed on the ballot before those secret written ballots have been opened and counted at a meeting called for that purpose.]~~ **(Deleted by amendment.)**

Sec. 6.5. **NRS 116.31144 is hereby amended to read as follows:**

116.31144 1. Except as otherwise provided in ~~[subsection 2,]~~ ***this section,*** the executive board shall:

(a) If the annual budget of the association is less than $75,000, cause the financial statement of the association to be audited by an independent certified public accountant at least once every 4 fiscal years.

(b) If the annual budget of the association is $75,000 or more but less than $150,000, cause the financial statement of the association to be:

(1) Audited by an independent certified public accountant at least once every 4 fiscal years; and

(2) Reviewed by an independent certified public accountant every fiscal year for which an audit is not conducted.

(c) If the annual budget of the association is $150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.

2. For any fiscal year for which an audit of the financial statement of the association will not be conducted pursuant to subsection 1, the executive board shall cause the financial statement for that fiscal year to be audited by an independent certified public accountant if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit.

3. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of ***the*** financial statements of an association pursuant to this section. Such regulations must include, without limitation:

(a) The qualifications necessary for a person to audit or review financial statements of an association; ~~[and]~~

(b) The standards and format to be followed in auditing or reviewing financial statements of an association ~~[.]~~ ***;***

(c) The requirement that an audit or review of the financial statements of an association be completed within 180 days after the end of the fiscal year; and

(d) The ability of the Commission to grant an exemption to the requirement of an audit or review of the financial statements of an association with an annual budget that is less than $75,000. To receive an exemption pursuant to this paragraph, an association must submit a request to the Commission which includes a written statement of the reasons for requesting the exemption. If the Commission grants the exemption, the Commission shall notify the association within 30 days after receipt of the request for exemption.

Sec. 6.7. ~~[NRS 116.31153 is hereby amended to read as follows:~~

~~116.31153 *1.* Money in the reserve account of an association required by paragraph (b) of subsection 2 of NRS 116.3115 may not be withdrawn without the signatures of at least two members of the executive board or the signatures of at least one member of the executive board and one officer of the association who is not a member of the executive board.~~

~~*2. Money in the operating account of an association may not be withdrawn without the signatures of at least one member of the executive board or one officer of the association and a member of the executive board, an officer of the association or the community manager.]~~ **(Deleted by amendment.)**

Sec. 7. (Deleted by amendment.)

Sec. 7.5. ~~[NRS 116.31162 is hereby amended to read as follows:~~

~~116.31162 1. Except as otherwise provided in subsection 4, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where~~

~~the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the association may foreclose its lien by sale after all of the following occur:~~

~~(a) The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his successor in interest, at his address if known and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.~~

~~(b) Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:~~

~~(1) Describe the deficiency in payment.~~

~~(2) State the name and address of the person authorized by the association to enforce the lien by sale.~~

~~(3) Contain, in 14 point bold type, the following warning:~~
~~WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!~~

~~*(c) The Commission has approved of the foreclosure of the lien. The Commission shall grant approval for the foreclosure of the lien if the Commission finds that the association has complied with paragraph (a) and the association or other person conducting the sale has complied with paragraph (b).*~~

~~*(d)* The unit's owner or his successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.~~

~~2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.~~

~~3. The period of 90 days begins on the first day following:~~

~~(a) The date on which the notice of default is recorded; or~~

~~(b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his successor in interest at his address, if known, and at the address of the unit,~~

~~whichever date occurs later.~~

~~4. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:~~

~~(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or~~

~~(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.]~~ **(Deleted by amendment.)**

Sec. 8. ~~[NRS 116.31166 is hereby amended to read as follows:~~

~~116.31166 1. The recitals in a deed made pursuant to NRS 116.31164 of:~~

~~(a) Default, the mailing of the notice of delinquent assessment, and the recording of the notice of default and election to sell;~~

~~(b) The elapsing of the 90 days; and~~

~~(c) The giving of notice of sale,~~

~~, are conclusive proof of the matters recited.~~

~~2. Such a deed containing those recitals is conclusive against the unit's former owner, his heirs and assigns, and all other persons. The receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money.~~

~~3. The sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 [vests in the purchaser the title of the unit's owner without] *is subject to an* equity or right of redemption.]~~ **(Deleted by amendment.)**

Sec. 9. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, except for those records described in subsection 2; and

(c) A contract between the association and an attorney.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

6. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and without charge, provide equal space in the same issue to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.

7. Except as otherwise provided in this subsection, if an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community. ~~*[If an official publication contains or will contain any information concerning a civil action or claim in which the association is a party, the official publication is not required to provide equal space to any opposing views or opinions.]*~~

8. As used in this section:

(a) "Issue of official interest" includes, without limitation:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and

(2) The enactment or adoption of rules or regulations that will affect a common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner,

➥ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.

Sec. 9.5. **NRS 116.31187 is hereby amended to read as follows:**

116.31187 1. Except as otherwise provided in this section, a member of an executive board or an officer of an association shall not:

(a) On or after October 1, 2003, enter into a contract or renew a contract with the association to provide ***financing,*** goods or services to the association; or

(b) Otherwise accept any commission, personal profit or compensation of any kind from the association for providing ***financing,*** goods or services to the association.

2. The provisions of this section do not prohibit a declarant, an affiliate of a declarant or an officer, employee or agent of a declarant or an affiliate of a declarant from:

(a) Receiving any commission, personal profit or compensation from the association, the declarant or an affiliate of the declarant for any ***financing,*** goods or services furnished to the association;

(b) Entering into contracts with the association, the declarant or affiliate of the declarant; or

(c) Serving as a member of the executive board or as an officer of the association.

Sec. 9.6. **NRS 116.345 is hereby amended to read as follows:**

116.345 1. An association of a planned community may not restrict, prohibit or otherwise impede the lawful residential use of any property that is within or encompassed by the boundaries of the planned community and that is not designated as part of the planned community.

2. Except as otherwise provided in this subsection, an association may not restrict the access of a person to any of his property. An association may restrict access to and from a unit within a planned community if the right to restrict such access was included in the declaration or in a separate recorded instrument at the time that the owner of the unit acquired title to the unit. The provisions of this subsection do not prohibit an association from charging the owner of the property a reasonable and nondiscriminatory fee to operate or maintain a gate or other similar device designed to control access to the planned community that would otherwise impede ingress or egress to the property.

3. An association may not expand, construct or situate a building or structure that is not part of any plat or plan of the planned community if the expansion, construction or situation of the building or structure was not previously disclosed to the units' owners of the planned community unless the association obtains the written consent of a majority of the units' owners and residents of the planned community who own property or reside within 500 feet of the proposed location of the building or structure.

4. ***An association may not interrupt any utility service furnished to a unit's owner or a tenant of a unit's owner except for the nonpayment of utility charges when due. The interruption of any utility service pursuant to this subsection must be performed in a manner which is consistent with all laws, regulations and governing documents relating to the interruption of any utility service. An association must in every case send a written notice of its intent to interrupt any utility service to the unit's owner or the tenant of the unit's owner at least 10 days before the association interrupts any utility service.***

5. The provisions of this section do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 9.8. **NRS 116.350 is hereby amended to read as follows:**

116.350 1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not provide for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.

2. ~~[The]~~ ***Except as otherwise provided in subsection 3, the*** provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict ~~[the]~~ ***:***

(a) Parking on any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use if the requirement that no parking be allowed is included in the terms of any applicable zoning ordinance, permit or approval or as a condition for approval of any final subdivision map; or

(b) The parking or storage of ***inoperable vehicles,*** recreational vehicles, watercraft, trailers or commercial vehicles in the common-interest community to the extent authorized by law.

3. In a common-interest community, the executive board shall not and the governing documents must not prohibit a person from:

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for public utility services; or

(b) Parking a law enforcement vehicle or emergency services vehicle on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in his official duties; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services.

4. As used in this section:

(a) "Commercial motor vehicle" has the meaning ascribed to it in 49 C.F.R. § 350.105.

(b) "Emergency services vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

(c) "Law enforcement vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

(d) "Utility service vehicle" means any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service.

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the commercial motor vehicle is owned, leased or rented by the utility.

Sec. 10. ~~[NRS 116A.410 is hereby amended to read as follows:]~~

~~116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:~~

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

~~(b) *Must require an applicant to post a bond in a form and in an amount established by regulation. The Commission shall, by regulation, adopt a sliding scale for the amount of the bond that is based upon the amount of money that applicants are expected to control.*~~

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

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

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

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

~~2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.]~~ **(Deleted by amendment.)**

Sec. 11. (Deleted by amendment.)

Sec. 12. ~~[1. This section becomes effective upon passage and approval.~~

~~2. Section 10 of this act becomes 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 January 1, 2008, for all other purposes.~~

~~3. Sections 1 to 9, inclusive, and 11 of this act become effective on October 1, 2007.]~~ **(Deleted by amendment.)**

Sec. 13. **The amendatory provisions of section 2.5 of this act apply to all owners of property in a common-interest community that is exempt from taxation pursuant to NRS 361.125 who are not obligated to pay assessments as of January 1, 2007.**

Assemblyman Anderson moved that the Assembly do not concur in the Senate Amendment No. 910 to Assembly Bill No. 396.

Remarks by Assemblyman Anderson.

Motion carried.

The following Senate amendment was read:

Amendment No. 978.

AN ACT relating to common-interest communities; requiring a member of an executive board who stands to profit personally from a matter before the board to disclose and abstain from voting on the matter; prohibiting an association in a common-interest community from imposing an assessment against the owners of certain tax-exempt property; providing that official publications related to issues of official interest must provide equal space for opposing views and opinions; revising the provisions governing the regulation of certain streets in certain common-interest communities; making various other changes to the provisions governing common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides additional ethical requirements for members of an executive board by requiring a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter. (NRS 116.31185, 116.31187)

Section 2.5 of this bill prohibits an association from imposing an assessment against the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. Section 13 of this bill provides that this prohibition applies to such owners who are not obligated to pay assessments as of January 1, 2007.

Section 3 of this bill amends existing law to increase the maximum term of office for a member of an executive board from 2 years to 3 years. (NRS 116.31034)

Section 6.5 of this bill revises existing provisions relating to financial statements by allowing the Commission on Common-Interest Communities to waive the qualification requirements of auditors for certain associations. (NRS 116.31144)

Section 9 of this bill provides that if an official publication contains the views or opinions of the association concerning an issue of official interest, the official publication must, upon request, provide equal space and equivalent exposure to opposing views and opinions. In addition, section 9 provides that if an official publication contains any mention of a candidate or ballot question, the official publication must provide equal space in the same issue to the candidate or a representative of an organization which advocates the passage or defeat of the ballot question.

Section 9.5 of this bill revises existing law by including financing as a prohibited activity for members of the executive board and officers. (NRS 116.31187)

Section 9.6 of this bill provides additional rights to units' owners by mandating notice before an association may interrupt utility service to a unit's owner. (NRS 116.345)

Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the

State or local governments for public use. (NRS 116.350) Section 9.8 of this bill permits an association to restrict parking on such thoroughfares if the parking prohibition was a condition for approval of the subdivision's final map or included in the terms of a zoning ordinance, permit or approval. (NRS 116.350) Section 9.8 also adds inoperable vehicles to the types of vehicles for which an association may restrict parking or storage in a common-interest community. (NRS 116.350) Finally, section 9.8 prohibits a common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.

Section 13 of this bill provides for the issuance of temporary certificates for community managers for a period of 1 year under certain circumstances. (NRS 116A.410)

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

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

1. A member of an executive board who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall:

(a) Disclose the matter to the executive board; and

(b) Abstain from voting on any such matter.

2. For the purposes of this section, an employee of a declarant or an affiliate of a declarant who is a member of the executive board shall not, solely by reason of such employment or affiliation, be deemed to gain any personal profit or compensation.

Sec. 1.2. NRS 116.021 is hereby amended to read as follows:

116.021 ***1.*** "Common-interest community" means real estate with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for real estate other than that unit. ~~["Ownership]~~

2. As used in this section, "ownership of a unit" does not include holding a leasehold interest of less than 20 years in a unit, including options to renew.

3. For the purposes of determining whether real estate is a "common-interest community" pursuant to this section, the fact that the real estate is subject to covenants, conditions or restrictions is not relevant or determinative.

Sec. 1.3. (Deleted by amendment.)

Sec. 1.7. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 2.5. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in ~~[subsection 2,]~~ ***this section,*** and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

3. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 3. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed ~~[2]~~ ***3*** years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Each person whose name is placed on the ballot as a candidate for a member of the executive board must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➥ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot in the manner established in the bylaws of the association.

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

8. The election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 6.3. (Deleted by amendment.)

Sec. 6.5. NRS 116.31144 is hereby amended to read as follows:

116.31144 1. Except as otherwise provided in ~~[subsection 2,]~~ ***this section,*** the executive board shall:

(a) If the annual budget of the association is less than $75,000, cause the financial statement of the association to be audited by an independent certified public accountant at least once every 4 fiscal years.

(b) If the annual budget of the association is $75,000 or more but less than $150,000, cause the financial statement of the association to be:

(1) Audited by an independent certified public accountant at least once every 4 fiscal years; and

(2) Reviewed by an independent certified public accountant every fiscal year for which an audit is not conducted.

(c) If the annual budget of the association is $150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.

2. For any fiscal year for which an audit of the financial statement of the association will not be conducted pursuant to subsection 1, the executive board shall cause the financial statement for that fiscal year to be audited by an independent certified public accountant if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit.

3. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of ***the*** financial statements of an association pursuant to this section. Such regulations must include, without limitation:

(a) The qualifications necessary for a person to audit or review financial statements of an association; ~~[and]~~

(b) The standards and format to be followed in auditing or reviewing financial statements of an association ~~[.]~~ ***;***

(c) The requirement that an audit or review of the financial statements of an association be completed within 180 days after the end of the fiscal year; and

(d) The ability of the Commission to grant an exemption to the requirement of an audit or review of the financial statements of an association with an annual budget that is less than $75,000. To receive an exemption pursuant to this paragraph, an association must submit a request to the Commission which includes a written statement of the reasons for requesting the exemption. If the Commission grants the exemption, the Commission shall notify the association within 30 days after receipt of the request for exemption.

Sec. 6.7. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 7.5. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including,

without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, except for those records described in subsection 2; and

(c) A contract between the association and an attorney.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

6. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request

and without charge, provide equal space in the same issue to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.

7. Except as otherwise provided in this subsection, if an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community.

8. As used in this section:

(a) "Issue of official interest" includes, without limitation:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and

(2) The enactment or adoption of rules or regulations that will affect a common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner,

➥ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.

Sec. 9.5. NRS 116.31187 is hereby amended to read as follows:

116.31187 1. Except as otherwise provided in this section, a member of an executive board or an officer of an association shall not:

(a) On or after October 1, 2003, enter into a contract or renew a contract with the association to provide ***financing,*** goods or services to the association; or

(b) Otherwise accept any commission, personal profit or compensation of any kind from the association for providing ***financing,*** goods or services to the association.

2. The provisions of this section do not prohibit a declarant, an affiliate of a declarant or an officer, employee or agent of a declarant or an affiliate of a declarant from:

(a) Receiving any commission, personal profit or compensation from the association, the declarant or an affiliate of the declarant for any ***financing,*** goods or services furnished to the association;

(b) Entering into contracts with the association, the declarant or affiliate of the declarant; or

(c) Serving as a member of the executive board or as an officer of the association.

Sec. 9.6. NRS 116.345 is hereby amended to read as follows:

116.345 1. An association of a planned community may not restrict, prohibit or otherwise impede the lawful residential use of any property that is within or encompassed by the boundaries of the planned community and that is not designated as part of the planned community.

2. Except as otherwise provided in this subsection, an association may not restrict the access of a person to any of his property. An association may restrict access to and from a unit within a planned community if the right to restrict such access was included in the declaration or in a separate recorded instrument at the time that the owner of the unit acquired title to the unit. The provisions of this subsection do not prohibit an association from charging the owner of the property a reasonable and nondiscriminatory fee to operate or maintain a gate or other similar device designed to control access to the planned community that would otherwise impede ingress or egress to the property.

3. An association may not expand, construct or situate a building or structure that is not part of any plat or plan of the planned community if the expansion, construction or situation of the building or structure was not previously disclosed to the units' owners of the planned community unless the association obtains the written consent of a majority of the units' owners and residents of the planned community who own property or reside within 500 feet of the proposed location of the building or structure.

4. ***An association may not interrupt any utility service furnished to a unit's owner or a tenant of a unit's owner except for the nonpayment of utility charges when due. The interruption of any utility service pursuant to this subsection must be performed in a manner which is consistent with all laws, regulations and governing documents relating to the interruption of any utility service. An association must in every case send a written notice of its intent to interrupt any utility service to the unit's owner or the tenant of the unit's owner at least 10 days before the association interrupts any utility service.***

5. The provisions of this section do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 9.8. NRS 116.350 is hereby amended to read as follows:

116.350 1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not provide for the regulation of any road, street, alley or other thoroughfare the

right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.

2. ~~[The]~~ ***Except as otherwise provided in subsection 3, the*** provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict ~~[the]~~ ***:***

(a) Parking on any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use if the requirement that no parking be allowed is included in the terms of any applicable zoning ordinance, permit or approval or as a condition for approval of any final subdivision map; or

(b) The parking or storage of ***inoperable vehicles,*** recreational vehicles, watercraft, trailers or commercial vehicles in the common-interest community to the extent authorized by law.

3. In a common-interest community, the executive board shall not and the governing documents must not prohibit a person from:

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for public utility services; or

(b) Parking a law enforcement vehicle or emergency services vehicle on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in his official duties; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services.

4. As used in this section:

(a) "Commercial motor vehicle" has the meaning ascribed to it in 49 C.F.R. § 350.105.

(b) "Emergency services vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

(c) "Law enforcement vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

(d) "Utility service vehicle" means any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service.

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the commercial motor vehicle is owned, leased or rented by the utility.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. **NRS 116A.410 is hereby amended to read as follows:**

116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate. ***The regulations must include, without limitation, provisions that:***

(1) Provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Holds a professional designation in the field of management of a common-interest community from a nationally recognized organization;

(II) Provides evidence that the person has been engaged in the management of a common-interest community for at least 5 years; and

(III) Has not been the subject of any disciplinary action in another state in connection with the management of a common-interest community.

(2) Except as otherwise provided in subparagraph (3), provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Receives an offer of employment as a community manager from an association; and

(II) Has management experience determined to be sufficient by the executive board of the association making the offer in sub-subparagraph (I). The executive board must have sole discretion to make the determination required in this sub-subparagraph.

(3) Require a temporary certificate described in subparagraph (2) to expire before the end of the 1-year period if the certificate holder ceases to be employed by the association which offered him employment as described in subparagraph (2).

(4) Require a person who is issued a temporary certificate as described in subparagraph (1) or (2) to successfully complete not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act within the 1-year period.

(5) Provide for the issuance of a certificate at the conclusion of the 1-year period if the person:

(I) Has successfully completed not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act; and

(II) Has not been the subject of any disciplinary action pursuant to this chapter, chapter 116 of NRS or any regulations adopted pursuant thereto.

(6) Provide that a temporary certificate described in subparagraph (1) or (2), and a certificate described in subparagraph (5):

(I) Must authorize the person who is issued a temporary certificate described in subparagraph (1) or (2) or certificate described in subparagraph (5) to act in all respects as a community manager and exercise all powers available to any other community manager without regard to experience; and

(II) Must not be treated as a limited, restricted or provisional form of a certificate.

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

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

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

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

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

3. As used in this subsection, "management experience" means experience in a position in business or government, including, without limitation, in the military:

(a) In which the person holding the position was required, as part of holding the position, to engage in one or more management activities, including, without limitation, supervision of personnel, development of budgets or financial plans, protection of assets, logistics, management of human resources, development or training of personnel, public relations, or protection or maintenance of facilities; and

(b) Without regard to whether the person holding the position has any experience managing or otherwise working for an association.

~~[Sec. 13.]~~ ***Sec. 14.*** The amendatory provisions of section 2.5 of this act apply to all owners of property in a common-interest community that is exempt from taxation pursuant to NRS 361.125 who are not obligated to pay assessments as of January 1, 2007.

Assemblyman Anderson moved that the Assembly do not concur in the Senate Amendment No. 978 to Assembly Bill No. 396.

Remarks by Assemblyman Anderson.

Motion carried.

The following Senate amendment was read:

Amendment No. 1002.

AN ACT relating to common-interest communities; requiring a member of an executive board who stands to profit personally from a matter before the board to disclose and abstain from voting on the matter; prohibiting an association in a common-interest community from imposing an assessment against the owners of certain tax-exempt property; providing that official publications related to issues of official interest must provide equal space for opposing views and opinions; revising the provisions governing the regulation of certain streets in certain common-interest communities; making various other changes to the provisions governing common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section ~~[1]~~ **1.1** of this bill provides additional ethical requirements for members of an executive board by requiring a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter. (NRS 116.31185, 116.31187)

Section 1.15 of this bill: (1) states that the provisions of chapter 116 of NRS do not invalidate or modify the tariffs, rules and standards of a public utility; and (2) provides that the governing documents of an association must be consistent and not conflict with the tariffs, rules and standards of a public utility.

Section 2.5 of this bill prohibits an association from imposing an assessment against the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. Section 13 of this bill provides that this prohibition applies to such owners who are not obligated to pay assessments as of January 1, 2007.

Section 3 of this bill amends existing law to increase the maximum term of office for a member of an executive board from 2 years to 3 years. (NRS 116.31034)

Section 6.5 of this bill revises existing provisions relating to financial statements by allowing the Commission on Common-Interest Communities to waive the qualification requirements of auditors for certain associations. (NRS 116.31144)

Section 9 of this bill provides that if an official publication contains the views or opinions of the association concerning an issue of official interest, the official publication must, upon request, provide equal space and equivalent exposure to opposing views and opinions. In addition, section 9 provides that if an official publication contains any mention of a candidate or ballot question, the official publication must provide equal space in the same issue to the candidate or a representative of an organization which advocates the passage or defeat of the ballot question.

Section 9.5 of this bill revises existing law by including financing as a prohibited activity for members of the executive board and officers. (NRS 116.31187)

Section 9.6 of this bill provides additional rights to units' owners by mandating notice before an association may interrupt utility service to a unit's owner. (NRS 116.345)

Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) Section 9.8 of this bill permits an association to restrict parking on such thoroughfares if the parking prohibition was a condition for approval of the subdivision's final map or included in the terms of a zoning ordinance, permit or approval. (NRS 116.350) Section 9.8 also adds inoperable vehicles to the types of vehicles for which an association may restrict parking or storage in a common-interest community. (NRS 116.350) Finally, section 9.8 prohibits a common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 1.1 and 1.15 of this act.**

Sec. 1.1. 1. A member of an executive board who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall:

(a) Disclose the matter to the executive board; and

(b) Abstain from voting on any such matter.

2. For the purposes of this section, an employee of a declarant or an affiliate of a declarant who is a member of the executive board shall not, solely by reason of such employment or affiliation, be deemed to gain any personal profit or compensation.

Sec. 1.15. 1. The provisions of this chapter do not invalidate or modify the tariffs, rules and standards of a public utility.

2. The governing documents of an association must be consistent and not conflict with the tariffs, rules and standards of a public utility. Any provision of the governing documents which conflicts with the tariffs, rules

and standards of a public utility is void and may not be enforced against a purchaser.

3. As used in this section, "public utility" has the meaning ascribed to it in NRS 704.020.

Sec. 1.2. NRS 116.021 is hereby amended to read as follows:

116.021 ***1.*** "Common-interest community" means real estate with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for real estate other than that unit. ~~["Ownership]~~

2. As used in this section, "ownership of a unit" does not include holding a leasehold interest of less than 20 years in a unit, including options to renew.

3. For the purposes of determining whether real estate is a "common-interest community" pursuant to this section, the fact that the real estate is subject to covenants, conditions or restrictions is not relevant or determinative.

Sec. 1.3. (Deleted by amendment.)

Sec. 1.7. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 2.5. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in ~~[subsection 2,]~~ ***this section,*** and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

3. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 3. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed ~~[2]~~ ***3*** years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Each person whose name is placed on the ballot as a candidate for a member of the executive board must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➥ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot in the manner established in the bylaws of the association.

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

8. The election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 6.3. (Deleted by amendment.)

Sec. 6.5. NRS 116.31144 is hereby amended to read as follows:

116.31144 1. Except as otherwise provided in ~~[subsection 2,]~~ ***this section,*** the executive board shall:

(a) If the annual budget of the association is less than $75,000, cause the financial statement of the association to be audited by an independent certified public accountant at least once every 4 fiscal years.

(b) If the annual budget of the association is $75,000 or more but less than $150,000, cause the financial statement of the association to be:

(1) Audited by an independent certified public accountant at least once every 4 fiscal years; and

(2) Reviewed by an independent certified public accountant every fiscal year for which an audit is not conducted.

(c) If the annual budget of the association is $150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.

2. For any fiscal year for which an audit of the financial statement of the association will not be conducted pursuant to subsection 1, the executive board shall cause the financial statement for that fiscal year to be audited by an independent certified public accountant if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit.

3. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of ***the*** financial statements of an association pursuant to this section. Such regulations must include, without limitation:

(a) The qualifications necessary for a person to audit or review financial statements of an association; ~~[and]~~

(b) The standards and format to be followed in auditing or reviewing financial statements of an association ~~[.]~~ ***;***

(c) The requirement that an audit or review of the financial statements of an association be completed within 180 days after the end of the fiscal year; and

(d) The ability of the Commission to grant an exemption to the requirement of an audit or review of the financial statements of an association with an annual budget that is less than $75,000. To receive an exemption pursuant to this paragraph, an association must submit a request to the Commission which includes a written statement of the reasons for requesting the exemption. If the Commission grants the exemption, the Commission shall notify the association within 30 days after receipt of the request for exemption.

Sec. 6.7. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 7.5. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, except for those records described in subsection 2; and

(c) A contract between the association and an attorney.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used

to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

6. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and without charge, provide equal space in the same issue to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.

7. Except as otherwise provided in this subsection, if an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community.

8. As used in this section:

(a) "Issue of official interest" includes, without limitation:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and

(2) The enactment or adoption of rules or regulations that will affect a common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner,

➥ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.

Sec. 9.5. NRS 116.31187 is hereby amended to read as follows:

116.31187 1. Except as otherwise provided in this section, a member of an executive board or an officer of an association shall not:

(a) On or after October 1, 2003, enter into a contract or renew a contract with the association to provide ***financing,*** goods or services to the association; or

(b) Otherwise accept any commission, personal profit or compensation of any kind from the association for providing ***financing,*** goods or services to the association.

2. The provisions of this section do not prohibit a declarant, an affiliate of a declarant or an officer, employee or agent of a declarant or an affiliate of a declarant from:

(a) Receiving any commission, personal profit or compensation from the association, the declarant or an affiliate of the declarant for any ***financing,*** goods or services furnished to the association;

(b) Entering into contracts with the association, the declarant or affiliate of the declarant; or

(c) Serving as a member of the executive board or as an officer of the association.

Sec. 9.6. NRS 116.345 is hereby amended to read as follows:

116.345 1. An association of a planned community may not restrict, prohibit or otherwise impede the lawful residential use of any property that is within or encompassed by the boundaries of the planned community and that is not designated as part of the planned community.

2. Except as otherwise provided in this subsection, an association may not restrict the access of a person to any of his property. An association may restrict access to and from a unit within a planned community if the right to restrict such access was included in the declaration or in a separate recorded instrument at the time that the owner of the unit acquired title to the unit. The provisions of this subsection do not prohibit an association from charging the owner of the property a reasonable and nondiscriminatory fee to operate or maintain a gate or other similar device designed to control access to the planned community that would otherwise impede ingress or egress to the property.

3. An association may not expand, construct or situate a building or structure that is not part of any plat or plan of the planned community if the expansion, construction or situation of the building or structure was not previously disclosed to the units' owners of the planned community unless the association obtains the written consent of a majority of the units' owners

and residents of the planned community who own property or reside within 500 feet of the proposed location of the building or structure.

4. ***An association may not interrupt any utility service furnished to a unit's owner or a tenant of a unit's owner except for the nonpayment of utility charges when due. The interruption of any utility service pursuant to this subsection must be performed in a manner which is consistent with all laws, regulations and governing documents relating to the interruption of any utility service. An association must in every case send a written notice of its intent to interrupt any utility service to the unit's owner or the tenant of the unit's owner at least 10 days before the association interrupts any utility service.***

5. The provisions of this section do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

Sec. 9.8. NRS 116.350 is hereby amended to read as follows:

116.350 1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not provide for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.

2. ~~[The]~~ ***Except as otherwise provided in subsection 3, the*** provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict ~~[the]~~ ***:***

(a) Parking on any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use if the requirement that no parking be allowed is included in the terms of any applicable zoning ordinance, permit or approval or as a condition for approval of any final subdivision map; or

(b) The parking or storage of ***inoperable vehicles,*** recreational vehicles, watercraft, trailers or commercial vehicles in the common-interest community to the extent authorized by law.

3. In a common-interest community, the executive board shall not and the governing documents must not prohibit a person from:

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for public utility services; or

(b) Parking a law enforcement vehicle or emergency services vehicle on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in his official duties; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services.

4. As used in this section:

(a) "Commercial motor vehicle" has the meaning ascribed to it in 49 C.F.R. § 350.105.

(b) "Emergency services vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

(c) "Law enforcement vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

(d) "Utility service vehicle" means any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service.

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the commercial motor vehicle is owned, leased or rented by the utility.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. The amendatory provisions of section 2.5 of this act apply to all owners of property in a common-interest community that is exempt from

taxation pursuant to NRS 361.125 who are not obligated to pay assessments as of January 1, 2007.

Assemblyman Anderson moved that the Assembly do not concur in the Senate Amendment No. 1002 to Assembly Bill No. 396.

Remarks by Assemblyman Anderson.

Motion carried.

The following Senate amendment was read:

Amendment No. 1024.

AN ACT relating to common-interest communities; requiring a member of an executive board who stands to profit personally from a matter before the board to disclose and abstain from voting on the matter; prohibiting an association in a common-interest community from imposing an assessment against the owners of certain tax-exempt property; providing that official publications related to issues of official interest must provide equal space for opposing views and opinions; revising the provisions governing the regulation of certain streets in certain common-interest communities; making various other changes to the provisions governing common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides additional ethical requirements for members of an executive board by requiring a member who stands to gain any personal profit or compensation from a matter before the executive board to disclose the matter to the executive board and to abstain from voting on the matter. (NRS 116.31185, 116.31187)

Section 2.5 of this bill prohibits an association from imposing an assessment against the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. Section 13 of this bill provides that this prohibition applies to such owners who are not obligated to pay assessments as of January 1, 2007.

Section 3 of this bill amends existing law to increase the maximum term of office for a member of an executive board from 2 years to 3 years. (NRS 116.31034)

Section 6.5 of this bill revises existing provisions relating to financial statements by allowing the Commission on Common-Interest Communities to waive the qualification requirements of auditors for certain associations. (NRS 116.31144)

Section ~~9~~ of this bill provides that if an official publication contains the views or opinions of the association concerning an issue of official interest, the official publication must, upon request, provide equal space and equivalent exposure to opposing views and opinions. In addition, section 9 provides that if an official publication contains any mention of a candidate or ballot question, the official publication must provide equal space in the same issue to the candidate or a representative of an organization which advocates the passage or defeat of the ballot question.

Section 9.5 of this bill revises existing law by including financing as a prohibited activity for members of the executive board and officers. (NRS 116.31187)

Section 9.6 of this bill provides additional rights to units' owners by mandating notice before an association may interrupt utility service to a unit's owner. (NRS 116.345)

Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) Section 9.8 of this bill permits an association to restrict parking on such thoroughfares if the parking prohibition was a condition for approval of the subdivision's final map or included in the terms of a zoning ordinance, permit or approval. (NRS 116.350) Section 9.8 also adds inoperable vehicles to the types of vehicles for which an association may restrict parking or storage in a common-interest community. (NRS 116.350) Finally, section 9.8 prohibits a common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.

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

Section 1. **NRS 111.239 is hereby amended to read as follows:**

111.239 1. Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer, sale or any other interest in real property that prohibits or unreasonably restricts the owner of the property from using a system for obtaining solar or wind energy on his property is void and unenforceable.

2. ***The owner of the property has the burden of showing that a restriction or requirement on the use of such a system significantly decreases the efficiency or performance of the system.***

3. For the purposes of this section ~~[, "unreasonably]~~ ***:***

(a) "Significantly decreases the efficiency or performance of the system" means a decrease of 20 percent or more in the efficiency or performance of the system.

(b) "Unreasonably restricts the use of a system for obtain~~ing~~ solar or wind energy" means placing a restriction or requirement on the use of such a system which significantly decreases the efficiency or performance of the system and does not allow for the use of an alternative system at a comparable cost and with comparable efficiency and performance.

~~[Section 1.]~~ ***Sec. 2.*** Chapter 116 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 3, 4 and 5.**

Sec. 3. 1. A member of an executive board who stands to gain any personal profit or compensation of any kind from a matter before the executive board shall:

(a) Disclose the matter to the executive board; and

(b) Abstain from voting on any such matter.

2. For the purposes of this section, an employee of a declarant or an affiliate of a declarant who is a member of the executive board shall not, solely by reason of such employment or affiliation, be deemed to gain any personal profit or compensation.

Sec. 4. 1. The executive board of a common-interest community shall not, and the governing documents of a common-interest community must not, restrict, prohibit or otherwise impede the operation of a motorcycle if the motorcycle is operated on any road, street, alley or other surface intended for use by a motor vehicle.

2. The provisions of this section do not preclude the governing documents of a common-interest community from reasonably restricting the parking or storage of a motorcycle to the extent authorized by law.

3. As used in this section, "motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground which is required to be registered pursuant to chapter 482 of NRS.

Sec. 5. 1. A member of the executive board of a common-interest community, a community manager for the common-interest community and any other representative of the association shall not use a radar gun or other device designed to gauge the speed of a vehicle for the purpose of imposing any fine or other penalty upon or taking any other action against a unit's owner or other person.

2. The executive board of a common-interest community shall not impose any fine or other penalty upon or take any other action against a unit's owner or other person based on the results of any test conducted using a radar gun or other device designed to gauge the speed of a vehicle.

3. The governing documents of a common-interest community must not authorize the executive board or any other person to impose any fine or other penalty upon or take any other action against a unit's owner or other person based on the results of any test conducted using a radar gun or other device designed to gauge the speed of a vehicle.

~~[Sec. 1.2.]~~ ***Sec. 6.*** NRS 116.021 is hereby amended to read as follows:

116.021 ***1.*** "Common-interest community" means real estate with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for real estate other than that unit. ~~["Ownership]~~

2. As used in this section, "ownership of a unit" does not include holding a leasehold interest of less than 20 years in a unit, including options to renew.

3. For the purposes of determining whether real estate is a "common-interest community" pursuant to this section, the fact that the real estate is subject to covenants, conditions or restrictions is not relevant or determinative.

~~[Sec. 1.3.]~~ ***Sec. 7.*** (Deleted by amendment.)

~~[Sec. 1.7.]~~ ***Sec. 8.*** (Deleted by amendment.)

~~[Sec. 2.]~~ ***Sec. 9.*** (Deleted by amendment.)

~~[Sec. 2.5]~~ ***Sec. 10.*** NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in ~~[subsection 2,]~~ ***this section,*** and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

3. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 11. **NRS 116.31031 is hereby amended to read as follows:**

116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or guest of a unit's owner violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:

(a) Prohibit, for a reasonable time, the unit's owner or the tenant or guest of the unit's owner from:

(1) Voting on matters related to the common-interest community.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or guest of the unit's owner from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) Impose a fine against the unit's owner or the tenant or guest of the unit's owner for each violation, except that a fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305. If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners**_**, ~~[or]~~ residents ***or community manager*** of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners**_**, ~~[or]~~ residents ***or community manager*** of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed $100 for each violation or a total amount of $1,000, whichever is less. The limitations on the amount of the fine do not apply to any interest, charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

2. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, the ***unit's owner and, if different, the*** person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and

(b) Within a reasonable time after the discovery of the violation, the ***unit's owner and, if different, the*** person against whom the fine will be imposed has been provided with:

(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and

(2) A reasonable opportunity to contest the violation at the hearing.

(*For the purposes of this subsection, a unit's owner shall not be deemed to have received written notice unless written notice is delivered to the address of the unit and, if different, to a mailing address specified by the unit's owner.*

3. The executive board must schedule the date, time and location for the hearing on the violation so that the ***unit's owner and, if different, the*** person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

4. The executive board must hold a hearing before it may impose the fine, unless ***the fine is paid before the hearing or unless*** the ***unit's owner and, if different, the*** person against whom the fine will be imposed:

(a) ~~[Pays the fine;~~

~~(b)]~~ Executes a written waiver of the right to the hearing; or

~~[(c)]~~ ***(b)*** Fails to appear at the hearing after being provided with proper notice of the hearing.

5. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.

6. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

7. ***A member of the executive board shall not participate in any hearing or cast any vote relating to a fine imposed pursuant to subsection 1 if the member has not paid all assessments which are due to the association by the member. If a member of the executive board:***

(a) Participates in a hearing in violation of this subsection, any action taken at the hearing is void.

(b) Casts a vote in violation of this subsection, the vote is void.

8. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

~~[8.]~~ ***9.*** Any past due fine:

(a) Bears interest at the rate established by the association, not to exceed the legal rate per annum.

(b) May include any costs of collecting the past due fine at a rate established by the association. If the past due fine is for a violation that does not threaten the health, safety or welfare of the ***units' owners,*** residents ***or community manager*** of the common-interest community, the rate established by the association for the costs of collecting the past due fine:

(1) May not exceed $20, if the outstanding balance is less than $200.

(2) May not exceed $50, if the outstanding balance is $200 or more, but is less than $500.

(3) May not exceed $100, if the outstanding balance is $500 or more, but is less than $1,000.

(4) May not exceed $250, if the outstanding balance is $1,000 or more, but is less than $5,000.

(5) May not exceed $500, if the outstanding balance is $5,000 or more.

(c) May include any costs incurred by the association during a civil action to enforce the payment of the past due fine.

~~[9.]~~ ***10. Not later than 30 days after receiving payment in full of a fine, including any lawful interest and costs of collection, an association shall provide written confirmation to the person upon whom the fine was***

imposed that the fine and all related charges have been paid in full and that the fine is discharged.

11. As used in this section:

(a) "Costs of collecting" includes, without limitation, any collection fee, filing fee, recording fee, referral fee, fee for postage or delivery, and any other fee or cost that an association may reasonably charge to the unit's owner for the collection of a past due fine. The term does not include any costs incurred by an association during a civil action to enforce the payment of a past due fine.

(b) "Outstanding balance" means the amount of a past due fine that remains unpaid before any interest, charges for late payment or costs of collecting the past due fine are added.

Sec. 12. **NRS 116.310315 is hereby amended to read as follows:**

116.310315 If an association has imposed a fine against a unit's owner or a tenant or guest of a unit's owner pursuant to NRS 116.31031 for violations of the governing documents of the association, the association ~~[:]~~ ***shall:***

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

2. ~~[Shall not apply, in whole or in part, any payment made by the unit's owner for any assessment, fee or other charge toward the payment of the outstanding balance of the fine or any costs of collecting the fine, unless the unit's owner provides written authorization which directs the association to apply the payment made by the unit's owner in such a manner.]~~ ***Apply any payment received from a unit's owner without written instructions as to the application of the payment:***

(a) First to current or past due assessments; and

(b) Then the remainder of any payment to past due fines, including the costs of collecting any such fine, unless the unit's owner has stated in writing that no amount of the payment is to be applied toward the fines or toward the costs of collecting the fines.

Sec. 13. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed ~~[2]~~ ***3*** years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an

equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association. ***Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his eligibility to serve as a member of the executive board pursuant to this subsection, the executive board may determine that if, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election, then:***

(a) The association will not prepare or mail any ballots to units' owners pursuant to this section;

(b) The candidates so nominated shall be deemed to be duly elected to the executive board not later than 30 days after the date of closing of the prescribed period for nominations; and

(c) Units' owners will receive notification that the candidates so nominated have been elected to the executive board.

5. Each person ~~[whose name is placed on the ballot]~~ ***who is nominated*** as a candidate for a member of the executive board ***pursuant to subsection 4*** must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate ~~[has]~~ ***:***

(1) Has any unpaid and past due assessments or construction penalties that are required to be paid to the association ~~[.]~~ ***;***

(2) Has any unpaid fine imposed by the executive board that is 30 days or more past due; or

(3) After being provided notice and the opportunity for a hearing in accordance with the provisions of NRS 116.31031, has been found to have committed a violation of the governing documents that has not been cured.

➥ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot ***or, in the event ballots are not prepared and mailed pursuant to subsection 4,*** in the manner established ***for distribution of ballots*** in the bylaws of the association.

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

8. ~~[The]~~ ***Except as otherwise provided in subsection 4, the*** election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 14. **NRS 116.31038 is hereby amended to read as follows:**

116.31038 In addition to any applicable requirement set forth in NRS 116.310395, within 30 days after units' owners other than the declarant may elect a majority of the members of the executive board, the declarant shall deliver to the association all property of the units' owners and of the association held by or controlled by him, including:

1. The original or a certified copy of the recorded declaration as amended, the articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization for the association, the bylaws, minute books and other books and records of the association and any rules or regulations which may have been adopted.

2. An accounting for money of the association and audited financial statements for each fiscal year and any ancillary period from the date of ~~[inception]~~ ***the last audit*** of the association to the date the period of the declarant's control ends. The financial statements must fairly and accurately report the association's financial position. ***The declarant shall pay the costs of the ancillary audit. The ancillary audit must be delivered within 210 days after the date the period of the declarant's control ends.***

3. A complete study of the reserves of the association, conducted by a person who ~~[holds a permit to conduct such a study issued]~~ ***is registered as a reserve study specialist*** pursuant to chapter 116A of NRS. At the time the control of the declarant ends, he shall:

(a) Except as otherwise provided in this paragraph, deliver to the association a reserve account that contains the declarant's share of the amounts then due, and control of the account. If the declaration was recorded before October 1, 1999, and, at the time the control of the declarant ends, he has failed to pay his share of the amounts due, the executive board shall authorize the declarant to pay the deficiency in installments for a period of 3 years, unless the declarant and the executive board agree to a shorter period.

(b) Disclose, in writing, the amount by which he has subsidized the association's dues on a per unit or per lot basis.

4. The association's money or control thereof.

5. All of the declarant's tangible personal property that has been represented by the declarant as property of the association or, unless the declarant has disclosed in the public offering statement that all such personal property used in the common-interest community will remain the declarant's property, all of the declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the common elements, and inventories of these properties.

6. A copy of any plans and specifications used in the construction of the improvements in the common-interest community which were completed within 2 years before the declaration was recorded.

7. All insurance policies then in force, in which the units' owners, the association, or its directors and officers are named as insured persons.

8. Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the common-interest community other than units in a planned community.

9. Any renewable permits and approvals issued by governmental bodies applicable to the common-interest community which are in force and any other permits and approvals so issued and applicable which are required by law to be kept on the premises of the community.

10. Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective.

11. A roster of owners and mortgagees of units and their addresses and telephone numbers, if known, as shown on the declarant's records.

12. Contracts of employment in which the association is a contracting party.

13. Any contract for service in which the association is a contracting party or in which the association or the units' owners have any obligation to pay a fee to the persons performing the services.

Sec. 15. **NRS 116.310395 is hereby amended to read as follows:**

116.310395 1. At the time of each close of escrow of a unit in a converted building, the declarant shall deliver to the association the amount of the converted building reserve deficit allocated to that unit.

2. The allocation to a unit of the amount of any converted building reserve deficit must be made in the same manner as assessments are allocated to that unit.

3. As used in this section, "converted building reserve deficit" means the amount necessary to replace the major components of the common elements needing replacement within 10 years after the date of the first ~~[sale]~~ ***close of escrow*** of a unit.

Sec. 16. **NRS 116.31083 is hereby amended to read as follows:**

116.31083 1. A meeting of the executive board must be held at least once every ~~[90]~~ ***quarter, and not less than once every 100*** days.

2. Except ~~[in an emergency]~~ ***as otherwise provided in subsection 3 or 4*** or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

(a) Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;

(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or

(c) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. ~~[In]~~ ***Except as otherwise provided in subsection 4, in*** an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.

4. ***If the sole purpose of a meeting of the executive board is to meet in executive session pursuant to subsection 4 of NRS 116.31085, notice of the meeting pursuant to this section is not required.***

5. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

~~[5.]~~ ***6.*** The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. The period required to be devoted to comments by the units' owners and discussion of those

comments must be scheduled for the beginning of each meeting. In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

~~[6.]~~ ***7.*** At least once every ~~[90]~~ ***quarter, and not less than once every 100*** days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

(a) A current year-to-date financial statement of the association;

(b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;

(c) A current reconciliation of the operating account of the association;

(d) A current reconciliation of the reserve account of the association;

(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and

(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

~~[7.]~~ ***8.*** The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the executive board. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meetings to be made available to the units' owners. A copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.

~~[8.]~~ ***9.*** Except as otherwise provided in subsection ~~[9]~~ ***10*** and NRS 116.31085, the minutes of each meeting of the executive board must include:

(a) The date, time and place of the meeting;

(b) Those members of the executive board who were present and those members who were absent at the meeting;

(c) The substance of all matters proposed, discussed or decided at the meeting;

(d) A record of each member's vote on any matter decided by vote at the meeting; and

(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

~~[9.]~~ ***10.*** The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings.

~~[10.]~~ ***11.*** The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

~~[11.]~~ ***12.*** A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive

board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.

~~[12.]~~ ***13.*** As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 2 or ~~[5.]~~ ***6.***

~~[Sec. 4.]~~. (Deleted by amendment.)

~~[Sec. 5.]~~ (Deleted by amendment.)

~~[Sec. 6.]~~ ***Sec. 17.*** (Deleted by amendment.)

~~[Sec. 6.3.]~~ ***Sec. 18.*** (Deleted by amendment.)

~~[Sec. 6.5.]~~ ***Sec. 19.*** NRS 116.31144 is hereby amended to read as follows:

116.31144 1. Except as otherwise provided in ~~[subsection 2,]~~ ***this section,*** the executive board shall:

(a) If the annual budget of the association is less than $75,000, cause the financial statement of the association to be audited by an independent certified public accountant at least once every 4 fiscal years.

(b) If the annual budget of the association is $75,000 or more but less than $150,000, cause the financial statement of the association to be:

(1) Audited by an independent certified public accountant at least once every 4 fiscal years; and

(2) Reviewed by an independent certified public accountant every fiscal year for which an audit is not conducted.

(c) If the annual budget of the association is $150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.

2. For any fiscal year for which an audit of the financial statement of the association will not be conducted pursuant to subsection 1, the executive board shall cause the financial statement for that fiscal year to be audited by an independent certified public accountant if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit.

3. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of ***the*** financial statements of an association pursuant to this section. Such regulations must include, without limitation:

(a) The qualifications necessary for a person to audit or review financial statements of an association; ~~[and]~~

(b) The standards and format to be followed in auditing or reviewing financial statements of an association ~~[.]~~ ***;***

(c) The requirement that an audit or review of the financial statements of an association be completed within 180 days after the end of the fiscal year; and

(d) The ability of the Commission to grant an exemption to the requirement of an audit or review of the financial statements of an association with an annual budget that is less than $75,000. To receive an exemption pursuant to this paragraph, an association must submit a request to the Commission which includes a written statement of the reasons for requesting the exemption. If the Commission grants the exemption, the Commission shall notify the association within 30 days after receipt of the request for exemption.

Sec. 20. **NRS 116.3115 is hereby amended to read as follows:**

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive:

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements are necessary. ***Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common-interest community if such assessments are made pursuant to findings contained in***

a study of the reserves of the association prepared by a person who is registered as a reserve study specialist pursuant to chapter 116A of NRS.

3. Any past due assessment for common expenses or installment thereof bears interest at the rate established by the association not exceeding 18 percent per year.

4. To the extent required by the declaration:

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If any common expense is caused by the misconduct of any unit's owner, the association may assess that expense exclusively against his unit.

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

Sec. 21. **NRS 116.31152 is hereby amended to read as follows:**

116.31152 1. The executive board shall:

(a) At least once every 5 years, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements ***.*** ~~[;]~~

(b) At least annually, review the results of that study to determine whether those reserves are sufficient ***.*** ~~[; and]~~ ***The reserves shall be deemed adequately funded if:***

(1) The amount of the reserves is equal to or greater than the amount specified in the funding plan; or

(2) The amount of reserves available for the next 5 years is sufficient to repair, replace and restore the major components of the common elements designated in the funding plan.

(c) At least annually, make any adjustments to the association's funding plan which the executive board deems necessary to provide adequate funding for the required reserves.

2. The study of the reserves required by subsection 1 must be conducted by a person who ~~[holds a permit issued]~~ ***is registered as a reserve study specialist*** pursuant to chapter 116A of NRS.

3. The study of the reserves must include, without limitation:

(a) A summary of an inspection of the major components of the common elements that the association is obligated to repair, replace or restore;

(b) An identification of the major components of the common elements that the association is obligated to repair, replace or restore which have a remaining useful life of less than 30 years;

(c) An estimate of the remaining useful life of each major component of the common elements identified pursuant to paragraph (b);

(d) An estimate of the cost of repair, replacement or restoration of each major component of the common elements identified pursuant to paragraph (b) during and at the end of its useful life; and

(e) An estimate of the total annual assessment that may be necessary to cover the cost of repairing, replacement or restoration of the major components of the common elements identified pursuant to paragraph (b), after subtracting the reserves of the association as of the date of the study, and an estimate of the funding plan that may be necessary to provide adequate funding for the required reserves.

4. A summary of the study of the reserves required by subsection 1 must be submitted to the Division not later than 45 days after the date that the executive board adopts the results of the study.

5. If a common-interest community was developed as part of a planned unit development pursuant to chapter 278A of NRS and is subject to an agreement with a city or county to receive credit against the amount of the residential construction tax that is imposed pursuant to NRS 278.4983 and 278.4985, the association that is organized for the common-interest community may use the money from that credit for the repair, replacement or restoration of park facilities and related improvements if:

(a) The park facilities and related improvements are identified as major components of the common elements of the association; and

(b) The association is obligated to repair, replace or restore the park facilities and related improvements in accordance with the study of the reserves required by subsection 1.

~~[Sec. 6.7.]~~ ***Sec. 22.*** (Deleted by amendment.)

~~[Sec. 7.]~~ ***Sec. 23.*** (Deleted by amendment.)

~~[Sec. 7.5.]~~ ***Sec. 24.*** (Deleted by amendment.)

~~[Sec. 8.]~~ ***Sec. 25.*** (Deleted by amendment.)

~~[Sec. 9.]~~ ***Sec. 26.*** NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including,

without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, except for those records described in subsection 2; ~~[and]~~

(c) A contract between the association and an attorney ~~[.]~~ ***; and***

(d) Any document, including, without limitation, minutes of an executive board meeting, a reserve study and a budget, if the document:

(1) Is in the process of being developed for final consideration by the executive board; and

(2) Has not been placed on an agenda for final approval by the executive board.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.

6. If an official publication contains or will contain any mention of a candidate or ballot question, the official publication must, upon request and without charge, provide equal space in the same issue to the candidate or a representative of an organization which supports the passage or defeat of the ballot question.

7. Except as otherwise provided in this subsection, if an official publication contains or will contain the views or opinions of the association, the executive board, a community manager or an officer, employee or agent of an association concerning an issue of official interest, the official publication must, upon request and without charge, provide equal space to opposing views and opinions of a unit's owner, tenant or resident of the common-interest community.

8. As used in this section:

(a) "Issue of official interest" includes, without limitation:

(1) Any issue on which the executive board or the units' owners will be voting, including, without limitation, the election of members of the executive board; and

(2) The enactment or adoption of rules or regulations that will affect a common-interest community.

(b) "Official publication" means:

(1) An official website;

(2) An official newsletter or other similar publication that is circulated to each unit's owner; or

(3) An official bulletin board that is available to each unit's owner,

➥ which is published or maintained at the cost of an association and by an association, an executive board, a member of an executive board, a community manager or an officer, employee or agent of an association.

~~[Sec. 9.5.]~~ ***Sec. 27.*** NRS 116.31187 is hereby amended to read as follows:

116.31187 1. Except as otherwise provided in this section, a member of an executive board or an officer of an association shall not:

(a) On or after October 1, 2003, enter into a contract or renew a contract with the association to provide ***financing,*** goods or services to the association; or

(b) Otherwise accept any commission, personal profit or compensation of any kind from the association for providing ***financing,*** goods or services to the association.

2. The provisions of this section do not prohibit a declarant, an affiliate of a declarant or an officer, employee or agent of a declarant or an affiliate of a declarant from:

(a) Receiving any commission, personal profit or compensation from the association, the declarant or an affiliate of the declarant for any ***financing,*** goods or services furnished to the association;

(b) Entering into contracts with the association, the declarant or affiliate of the declarant; or

(c) Serving as a member of the executive board or as an officer of the association.

~~[Sec. 9.6.]~~ ***Sec. 28.*** NRS 116.345 is hereby amended to read as follows:

116.345 1. An association of a planned community may not restrict, prohibit or otherwise impede the lawful residential use of any property that is within or encompassed by the boundaries of the planned community and that is not designated as part of the planned community.

2. Except as otherwise provided in this subsection, an association may not restrict the access of a person to any of his property. An association may restrict access to and from a unit within a planned community if the right to restrict such access was included in the declaration or in a separate recorded instrument at the time that the owner of the unit acquired title to the unit. The provisions of this subsection do not prohibit an association from charging the owner of the property a reasonable and nondiscriminatory fee to operate or maintain a gate or other similar device designed to control access to the planned community that would otherwise impede ingress or egress to the property.

3. An association may not expand, construct or situate a building or structure that is not part of any plat or plan of the planned community if the expansion, construction or situation of the building or structure was not previously disclosed to the units' owners of the planned community unless the association obtains the written consent of a majority of the units' owners and residents of the planned community who own property or reside within 500 feet of the proposed location of the building or structure.

4. ***An association may not interrupt any utility service furnished to a unit's owner or a tenant of a unit's owner except for the nonpayment of utility charges when due. The interruption of any utility service pursuant to this subsection must be performed in a manner which is consistent with all laws, regulations and governing documents relating to the interruption of any utility service. An association must in every case send a written notice of its intent to interrupt any utility service to the unit's owner or the tenant of the unit's owner at least 10 days before the association interrupts any utility service.***

5. The provisions of this section do not abrogate any easement, restrictive covenant, decision of a court, agreement of a party or any contract, governing document or declaration of covenants, conditions and restrictions, or any other decision, rule or regulation that a local governing body or other entity that makes decisions concerning land use or planning is authorized to make or enact that exists before October 1, 1999, including, without

limitation, a zoning ordinance, permit or approval process or any other requirement of a local government or other entity that makes decisions concerning land use or planning.

~~[Sec. 9.8.]~~ ***Sec. 29.*** NRS 116.350 is hereby amended to read as follows:

116.350 1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not provide for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.

2. ~~[The]~~ ***Except as otherwise provided in subsection 3, the*** provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict ~~[the]~~ ***:***

(a) Parking on any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use if the requirement that no parking be allowed is included in the terms of any applicable zoning ordinance, permit or approval or as a condition for approval of any final subdivision map; or

(b) The parking or storage of ***inoperable vehicles,*** recreational vehicles, watercraft, trailers or commercial vehicles in the common-interest community to the extent authorized by law.

3. In a common-interest community, the executive board shall not and the governing documents must not prohibit a person from:

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for public utility services; or

(b) Parking a law enforcement vehicle or emergency services vehicle on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in his official duties; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services.

4. As used in this section:

(a) "Commercial motor vehicle" has the meaning ascribed to it in 49 C.F.R. § 350.105.

(b) "Emergency services vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

(c) "Law enforcement vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

(d) "Utility service vehicle" means any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service.

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the commercial motor vehicle is owned, leased or rented by the utility.

Sec. 30. **NRS 116.411 is hereby amended to read as follows:**

116.411 1. Except as otherwise provided in subsections 2 ~~[and 3,]~~ ***, 3 and 4,*** a deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 must be placed in escrow and held either in this State or in the state where the unit is located in an account designated solely for that purpose by a licensed title insurance company, an independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality until:

(a) Delivered to the declarant at closing;

(b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit;

(c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released:

(1) Must not exceed the lesser of the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for the purpose; and

(2) Must be credited upon the purchase price; or

(d) Refunded to the purchaser.

2. A deposit or advance payment made for an additional item, improvement, optional item or alteration may be deposited in escrow or delivered directly to the declarant, as the parties may contract.

3. In lieu of placing a deposit in escrow pursuant to subsection 1, the declarant may furnish a bond executed by him as principal and by a corporation qualified under the laws of this State as surety, payable to the State of Nevada, and conditioned upon the performance of the declarant's duties concerning the purchase or reservation of a unit. Each bond must be in a principal sum equal to the amount of the deposit. The bond must be held until:

(a) Delivered to the declarant at closing;

(b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit; or

(c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released must not exceed the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for that purpose, whichever is less.

4. Pursuant to subsection 1, a deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 is deemed to be placed in escrow and held in this State when the escrow holder has:

(a) The legal right to conduct business in this State;

(b) A resident agent in this State pursuant to subsection 1 of NRS 14.020; and

(c) Consented to the jurisdiction of the courts of this State by:

(1) Maintaining a physical presence in this State; or

(2) Executing a written instrument containing such consent, with respect to any suit or claim, whether brought by the declarant or purchaser, relating to or arising in connection with such sale or the escrow agreement related thereto.

Sec. 31. **NRS 116.750 is hereby amended to read as follows:**

116.750 1. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, the Division and the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:

(a) Any association and any officer, employee or agent of an association.

(b) Any member of an executive board.

(c) Any community manager who holds a certificate and any other community manager.

(d) Any person who ~~[holds a permit to conduct a study of the reserves of an association issued]~~ ***is registered as a reserve study specialist, or who conducts a study of reserves,*** pursuant to chapter 116A of NRS.

(e) Any declarant or affiliate of a declarant.

(f) Any unit's owner.

(g) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto.

2. The jurisdiction set forth in subsection 1 applies to any officer, employee or agent of an association or any member of an executive board who commits a violation and who:

(a) Currently holds his office, employment, agency or position or who held his office, employment, agency or position at the commencement of proceedings against him.

(b) Resigns his office, employment, agency or position:

(1) After the commencement of proceedings against him; or

(2) Within 1 year after the violation is discovered or reasonably should have been discovered.

Sec. 32. **NRS 116A.120 is hereby amended to read as follows:**

116A.120 ~~["Permit"]~~ ***"Registration"*** means ~~[a permit]~~ ***registration*** to conduct a study of the reserves of an association pursuant to NRS 116.31152 ~~[issued by]~~ ***with*** the Division pursuant to this chapter.

Sec. 33. **NRS 116A.260 is hereby amended to read as follows:**

116A.260 The Division shall maintain in each district office a public docket or other record in which it shall record, from time to time as made:

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

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

3. Denials of applications made to that district office for examination ***, registration*** or issuance of a certificate ***.*** ~~[or permit.]~~

Sec. 34. **NRS 116A.410 is hereby amended to read as follows:**

116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate. ***The regulations must include, without limitation, provisions that:***

(1) Provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Holds a professional designation in the field of management of a common-interest community from a nationally recognized organization;

(II) Provides evidence that the person has been engaged in the management of a common-interest community for at least 5 years; and

(III) Has not been the subject of any disciplinary action in another state in connection with the management of a common-interest community.

(2) Except as otherwise provided in subparagraph (3), provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Receives an offer of employment as a community manager from an association; and

(II) Has management experience determined to be sufficient by the executive board of the association making the offer in sub-subparagraph (I). The executive board must have sole discretion to make the determination required in this sub-subparagraph.

(3) Require a temporary certificate described in subparagraph (2) to expire before the end of the 1-year period if the certificate holder ceases to be employed by the association which offered him employment as described in subparagraph (2).

(4) Require a person who is issued a temporary certificate as described in subparagraph (1) or (2) to successfully complete not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act within the 1-year period.

(5) Provide for the issuance of a certificate at the conclusion of the 1-year period if the person:

(I) Has successfully completed not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act; and

(II) Has not been the subject of any disciplinary action pursuant to this chapter, chapter 116 of NRS or any regulations adopted pursuant thereto.

(6) Provide that a temporary certificate described in subparagraph (1) or (2), and a certificate described in subparagraph (5):

(I) Must authorize the person who is issued a temporary certificate described in subparagraph (1) or (2) or certificate described in subparagraph (5) to act in all respects as a community manager and exercise all powers available to any other community manager without regard to experience; and

(II) Must not be treated as a limited, restricted or provisional form of a certificate.

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

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

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

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

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

3. As used in this section, "management experience" means experience in a position in business or government, including, without limitation, in the military:

(a) In which the person holding the position was required, as part of holding the position, to engage in one or more management activities, including, without limitation, supervision of personnel, development of budgets or financial plans, protection of assets, logistics, management of human resources, development or training of personnel, public relations, or protection or maintenance of facilities; and

(b) Without regard to whether the person holding the position has any experience managing or otherwise working for an association.

Sec. 35. **NRS 116A.420 is hereby amended to read as follows:**

116A.420 1. Except as otherwise provided in this section, a person shall not act as a reserve study specialist unless the person ~~[holds a permit.]~~ ***registers with the Division on a form provided by the Division.***

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

3. The Division may investigate any reserve study specialist ~~[who holds a permit]~~ to ensure that the reserve study specialist is complying with the provisions of this chapter and chapter 116 of NRS and the standards of practice adopted by the Commission.

4. In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a reserve study specialist ~~[who holds a permit]~~ has violated any provision of this chapter or chapter 116 of NRS or any of the standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the reserve study specialist.

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

(a) Refuse to ~~[issue a permit to]~~ ***accept the registration of*** a person who has failed to pay money which the person owes to the Commission or the Division.

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

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

7. A person who assists a registered reserve study specialist in preparing a reserve study, signed by a registered reserve study specialist, is not required to register as a reserve study specialist.

Sec. 36. **NRS 116A.430 is hereby amended to read as follows:**

116A.430 1. The Commission shall by regulation provide for the ~~[issuance]~~ ***registration*** by the Division of ~~[permits to]~~ reserve study specialists. The regulations:

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

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

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

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

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

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

Sec. 37. **NRS 116A.440 is hereby amended to read as follows:**

116A.440 1. An applicant for a certificate or ~~[permit]~~ ***registration*** shall submit to the Division:

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

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

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

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

(b) A separate form prescribed by the Division.

3. A certificate ~~[or permit]~~ may not be issued ***and an application for registration may not be accepted*** if the applicant:

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

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

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

Sec. 38. **NRS 116A.450 is hereby amended to read as follows:**

116A.450 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to ***a person who is registered or*** the holder of a certificate ***,*** ~~[or permit,]~~ the Division shall deem the ***registration or*** certificate ~~[or permit]~~ to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the ***person who is registered or the*** holder of the certificate ~~[or permit]~~ by the district attorney or other public agency pursuant to NRS 425.550 stating that the ***person who is registered or the*** holder of the certificate ~~[or permit]~~ has complied with a subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

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

Sec. 39. **NRS 116A.460 is hereby amended to read as follows:**

116A.460 The expiration or revocation of a ***registration or*** certificate ~~[or permit]~~ by operation of law or by order or decision of any agency or court of competent jurisdiction, or the voluntary surrender of such a ***registration or*** certificate ~~[or permit]~~ by the ***person who is registered or the*** holder of the certificate ~~[or permit]~~ does not:

1. Prohibit the Commission or the Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the ***person who is registered or the*** holder of the certificate ~~[or permit]~~ as authorized pursuant to the provisions of this chapter or chapter 116 of NRS or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or chapter 116 of NRS or the regulations adopted pursuant thereto against the ***person who is registered or the*** holder of the certificate ***.*** ~~[or permit.]~~

Sec. 40. **NRS 116A.900 is hereby amended to read as follows:**

116A.900 1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a ***registration or*** certificate ~~[or permit]~~ is required pursuant to this chapter or chapter 116 of NRS, or any regulation adopted pursuant thereto, if the person ***has not registered or*** does not hold the required certificate ~~[or permit]~~ or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or $5,000, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Commission shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Commission deems to be relevant.

4. Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter or chapter 116 of NRS if:

(a) A specific statute exempts the person from complying with the provisions of this chapter or chapter 116 of NRS with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 41. **NRS 278.0208 is hereby amended to read as follows:**

278.0208 1. A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts the owner of real property from using a system for obtaining solar or wind energy on his property.

2. Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer, sale or any other interest in real property that prohibits or unreasonably restricts the owner of the property from using a system for obtaining solar or wind energy on his property is void and unenforceable.

3. ***The owner of the property has the burden of showing that a restriction or requirement on the use of such a system significantly decreases the efficiency or performance of the system.***

4. For the purposes of this section ~~[~~, "unreasonably"~~]~~ ***:***

(a) "Significantly decreases the efficiency or performance of the system" means a decrease of 20 percent or more in the efficiency or performance of the system.

(b) "Unreasonably restricting the use of a system for obtaining solar or wind energy" means placing a restriction or requirement on the use of such a system which significantly decreases the efficiency or performance of the system and does not allow for the use of an alternative system at a comparable cost and with comparable efficiency and performance.

Sec. 42. **NRS 360.765 is hereby amended to read as follows:**

360.765 1. Except as otherwise provided in subsection 2, "business" means:

(a) Any person, except a natural person, that performs a service or engages in a trade for profit; or

(b) Any natural person who performs a service or engages in a trade for profit if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for that activity.

2. The term does not include:

(a) A governmental entity.

(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

(c) A person who operates a business from his home and whose net earnings from that business are not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.

(d) A natural person whose sole business is the rental of four or fewer dwelling units to others.

(e) A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, "motion pictures" has the meaning ascribed to it in NRS 231.020.

(f) A unit-owners' association organized pursuant to NRS 116.3101 as a nonprofit corporation, trust or partnership.

~~[Sec. 10.]~~ ***Sec. 43.*** (Deleted by amendment.)

~~[Sec. 11.]~~ ***Sec. 44.*** (Deleted by amendment.)

~~[Sec. 12.]~~ ***Sec. 45.*** (Deleted by amendment.)

~~[Sec. 13.]~~ ***Sec. 46.*** The amendatory provisions of section ~~[2.5]~~ **10** of this act apply to all owners of property in a common-interest community that

is exempt from taxation pursuant to NRS 361.125 who are not obligated to pay assessments as of January 1, 2007.

Sec. 47. **1. This act becomes effective on October 1, 2007.**

2. Sections 39 and 40 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Assemblyman Anderson moved that the Assembly do not concur in the Senate Amendment No. 1024 to Assembly Bill No. 396.

Remarks by Assemblyman Anderson.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 443.

The following Senate amendment was read:

Amendment No. 816.

AN ACT relating to communicable diseases; making various changes to provisions concerning the human immunodeficiency virus; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill expresses the ~~[sense]~~ **intent** of the Legislature regarding the manner in which governmental entities and persons and entities providing services of health care should collaborate to ensure that testing for the human immunodeficiency virus and related counseling is carried out in a culturally and linguistically appropriate manner, and with due regard for the sensitivity and private nature of such information.

Section 4 of this bill requires certain providers of testing for the human immunodeficiency virus to ensure that each person who tests positive for the human immunodeficiency virus receives a counseling session. The counseling session must include information on: (1) the test result; (2) follow-up testing; (3) medical treatment; (4) methods for preventing transmission of the human immunodeficiency virus; (5) the confidentiality of the test result; and (6) appropriate testing for sexual partners of those who test positive for the human immunodeficiency virus. Section 4 also requires ~~[each test provider]~~ **certain providers of testing** to offer referrals for certain health care services to those who test positive for the human immunodeficiency virus.

Existing law makes discrimination against persons with certain disabilities an unlawful employment practice. (NRS 613.310-613.435) Section ~~[5]~~ **6** of this bill ~~[prohibits employment discrimination against a person who has tested positive for]~~ **amends the definition of "disability" to specifically include** the human immunodeficiency virus **.** ~~[if the fact that the person tested positive would not prevent the proper performance of the work for which he otherwise would have been hired.]~~

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

Section 1. Chapter 441A of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***As used in sections 2, 3 and 4 of this act, "provider of health care" means a physician, nurse or physician assistant licensed in accordance with state law.***

Sec. 3. ***It is the intent of the Legislature that:***

1. The State Board of Health, the Department of Health and Human Services, and all district, county and city health departments, boards of health and health officers, ~~[medical laboratories,]~~ medical facilities and providers of health care work together in a collaborative manner to ensure that testing for the human immunodeficiency virus and related counseling services are offered in a culturally and linguistically appropriate manner.

2. Information pertaining to testing for the human immunodeficiency virus be reported and maintained in accordance with existing state and federal privacy laws.

3. Information pertaining to cases of the human immunodeficiency virus not be used for any purpose other than public health practices, including, without limitation, surveillance and epidemiology.

Sec. 4. ***1. Counties, providers of health care ~~[, medical laboratories]~~ and medical facilities that provide testing for the human immunodeficiency virus shall provide, or ensure the provision of, to each person who tests positive for the human immunodeficiency virus, a counseling session that is appropriate and acceptable under current medical and public health practices, as recommended by the Board.***

2. Counseling required pursuant to this section must address, without limitation:

(a) The meaning of the positive result of the test;

(b) Any follow-up testing for the person;

(c) Methods for preventing the transmission of the human immunodeficiency virus;

(d) Medical treatment available for the person;

(e) The confidentiality of the result of the test; and

(f) Recommended testing for the human immunodeficiency virus for sexual partners of the person.

3. Counties, providers of health care ~~[, medical laboratories]~~ and medical facilities that provide testing for the human immunodeficiency virus ~~[must]~~ shall offer to each person who tests positive for the human immunodeficiency virus:

(a) Appropriate referrals for future services, including, without limitation, medical care, mental health care and addiction services; or

(b) If unable to provide referrals pursuant to paragraph (a), referral to the local health authority for a subsequent referral to providers within the community for future services, including, without limitation, medical care, mental health care and addiction services.

4. The Director of the Department of Health and Human Services may adopt regulations to carry out the provisions of this section.

Sec. 5. ~~[Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*It is an unlawful employment practice:*~~

~~*1. For an employer to fail or refuse to hire and employ employees;*~~

~~*2. For an employment agency to fail to classify or refer any person for employment;*~~

~~*3. For a labor organization to fail to classify its membership or to fail to classify or refer any person for employment; or*~~

~~*4. For an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program,*~~

~~*→ because the person has tested positive for the human immunodeficiency virus, if the fact that the person tested positive for the human immunodeficiency virus would not prevent proper performance of the work for which the person would otherwise have been hired, classified, referred or prepared under a training or retraining program.]*~~ **(Deleted by amendment.)**

Sec. 6. NRS 613.310 is hereby amended to read as follows:

613.310 As used in NRS 613.310 to 613.435, inclusive, ~~*[and section 5 of this act,]*~~ unless the context otherwise requires:

1. "Disability" means, with respect to a person:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person ~~[,]~~ ***, including, without limitation, the human immunodeficiency virus;***

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

2. "Employer" means any person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, but does not include:

(a) The United States or any corporation wholly owned by the United States.

(b) Any Indian tribe.

(c) Any private membership club exempt from taxation pursuant to 26 U.S.C.
§ 501(c).

3. ”Employment agency” means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer, but does not include any agency of the United States.

4. ”Labor organization” means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or other conditions of employment.

5. ”Person” includes the State of Nevada and any of its political subdivisions.

6. ”Sexual orientation” means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Assemblywoman Leslie moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 443.

Remarks by Assemblywoman Leslie.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 247.

The following Senate amendment was read:

Amendment No. 937.

AN ACT relating to hospitals; limiting the amount of interest and other charges that hospitals may impose for delinquent payments; revising the limitation on the period for commencing an action against a person who has a delinquent account with a hospital; ~~[revising provisions concerning liens placed upon the award to an injured person to pay for hospitalization;]~~ prohibiting a hospital from assigning a lien on real property obtained in connection with a delinquent payment for services rendered at the hospital; **authorizing the use of money that is reverted from the Health Insurance Flexibility and Accountability Holding Account in the State General Fund to the Fund for Hospital Care to Indigent Persons at the end of each fiscal year to pay claims for any previous fiscal years;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Section 5 of this bill provides that a hospital may not proceed with efforts to collect on any amount owed to the hospital ~~[,]~~ **for hospital care rendered,** other than copayments and deductibles, if the person responsible for paying the account has or may be eligible for insurance benefits or public assistance until the insurance or public program has been billed and the amount owed by the responsible party has been established. Collection efforts and interest may begin not sooner than 30 days after the responsible party has been sent

notice of the amount that he is responsible to pay. Section 5 further limits the amount of interest that a hospital may charge on a delinquent account to prime rate plus 2 percent and prohibits a hospital from imposing any other fees, including, without limitation, collection fees, attorney's fees or any other fees or costs other than court costs and attorney's fees awarded by a court.

Section 6 of this bill requires a hospital or other person acting on its behalf to collect any debt for any amount owed to the hospital for hospital care rendered at the hospital in a professional, fair and lawful manner and in accordance with the federal Fair Debt Collection Practices Act.

Existing law establishes certain periods during which an action may be commenced in court which apply when no other statutes specify a different period. (NRS 11.190) Existing law further provides that the time set forth in that statute is deemed to date from the last transaction. (NRS 11.200) Section 7 of this bill provides that the period for commencing an action against a person to recover payment for any amount owed to a hospital for hospital care provided to a person at a hospital is not later than ~~[2]~~ **4** years after the date on which any payment that is due for the services is not paid. The period is tolled, however, during any periods in which the hospital is awaiting a determination concerning eligibility for or the amount of benefits from an insurer or public program and during any period in which payments are being made.

~~[Existing law provides that a lien may be placed upon any amount awarded to an injured person who received hospitalization or his representative for amounts due to a hospital for the reasonable value of hospitalization rendered before the date of the judgment. (NRS 108.590) Section 8 of this bill provides that if the person who received hospitalization has health insurance or may be eligible for public assistance from a public program which may pay all or part of the bill, the lien may not be placed on the award to the injured person until the hospital has established the amount for which the person will be liable. In addition, section 8 provides that the lien may only be for the amount of that liability.]~~

Existing law creates a lien on the real property of a person for unpaid charges incurred at a county or district hospital and establishes certain procedures that must be followed with respect to such liens. (NRS 108.662) Section 9 of this bill prohibits a county or district hospital from assigning, selling or transferring the interest of the hospital in such a lien.

Existing law provides that any money remaining in the Health Insurance Flexibility and Accountability Holding Account in the State General Fund at the end of each fiscal year reverts to the Fund for Hospital Care to Indigent Persons created by NRS 428.175 and to the State General Fund in equal amounts. (NRS 428.305) Section 10 of this bill provides that any such money that is reverted from the Health Insurance Flexibility and Accountability Holding Account to the Fund

for Hospital Care to Indigent Persons at the end of each fiscal year may be used to pay claims for any previous fiscal years.

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 6, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Hospital care" has the meaning ascribed to it in NRS 428.155.***

Sec. 4. ***"Responsible party" means the person who received the hospital care, the parent or guardian of the person who received the hospital care or another natural person who is legally responsible or has agreed to be responsible for the payment to the hospital of any charges incurred in connection with the hospital care.***

Sec. 5. ***1. When a person receives hospital care, the hospital must not proceed with any efforts to collect on any amount owed to the hospital for the hospital care from the responsible party, other than for any copayment or deductible, if the responsible party has health insurance or may be eligible for Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the bill, until the hospital has submitted a bill to the insurance company or public program and the insurance company or public program has made a determination concerning payment of the claim.***

2. Collection efforts may begin and interest may begin to accrue on any amount owed to the hospital for hospital care which remains unpaid by the responsible party not sooner than 30 days after the responsible party is sent a bill by mail stating the amount that he is responsible to pay which has been established after receiving a determination concerning payment of the claim by any insurer or public program and after applying any discounts. Interest must accrue at a rate which does not exceed the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date on which the payment becomes due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the payment is satisfied.

3. Except for the interest authorized pursuant to subsection 2 and any court costs and attorney's fees awarded by a court, no other fees may be charged concerning the amount that remains unpaid, including, without limitation, collection fees, other attorney's fees or any other fees or costs.

Sec. 6. ***A hospital, or any person acting on its behalf who seeks to collect a debt from a responsible party for any amount owed to the hospital for hospital care must collect the debt in a professional, fair and lawful manner. When collecting such a debt, the hospital or other person acting***

on its behalf must act in accordance with sections 803 to 812, inclusive, of the federal Fair Debt Collection Practices Act, as amended, 15 U.S.C. §§ 1692a to 1692j, inclusive, even if the hospital or person acting on its behalf is not otherwise subject to the provisions of that Act.

Sec. 7. Chapter 11 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, an action against a person to recover payment for any amount owed to a hospital for hospital care provided to the person at the hospital must be commenced not later than ~~[2]~~ 4 years after the date on which any payment that is due for the services is not paid.

2. The period provided in subsection 1 is tolled during any periods in which the hospital is awaiting a determination concerning eligibility for, or the amount of, benefits from an insurer or public program and during any periods in which payments are being made.

3. As used in this section, "hospital care" has the meaning ascribed to it in NRS 428.155.

Sec. 8. ~~[NRS 108.590 is hereby amended to read as follows:~~

~~108.590 1. [Whenever] *Except as otherwise provided in subsection 2, whenever* any person receives hospitalization on account of any injury, and he, or his personal representative after his death, claims damages from the person responsible for causing the injury, the hospital has a lien upon any sum awarded the injured person or his personal representative by judgment or obtained by a settlement or compromise to the extent of the amount due the hospital for the reasonable value of the hospitalization rendered before the date of judgment, settlement or compromise.~~

~~2. *If the responsible party has health insurance or may be eligible for Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the bill:*~~

~~*(a) The hospital may not place a lien upon the award to the injured person until the hospital has complied with the provisions of section 5 of this act.*~~

~~*(b) The lien provided pursuant to this section is valid only for the amount that is owed by the responsible party to the hospital as determined by the insurance company, Medicaid, the Children's Health Insurance Program or other public program.*~~

~~*3.* The lien provided by this section is:~~

~~(a) Not valid against anyone coming under the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS.~~

~~(b) In addition to the lien provided by NRS 108.662.~~

~~*4. As used in this section, "responsible party" means the person who received the hospitalization, the parent or guardian of the person who received the hospitalization or other natural person who has agreed to be responsible for the payment to the hospital of any charges incurred in connection with such services.]~~ **(Deleted by amendment.)**

Sec. 9. NRS 108.662 is hereby amended to read as follows:

108.662 1. Except as otherwise provided in subsection 4, a county or district hospital has a lien upon the real property of a person for charges incurred and unpaid for the care of the owner of the property or a person for whose support the owner is legally responsible.

2. The notice of the lien must be served upon the owner by certified or registered mail and filed in the office of the county recorder of the county where the real property is located not sooner than 90 days nor later than:

(a) Three years after the patient's discharge; or

(b) One year after the patient defaults on payments made pursuant to a written contract,

➥ whichever is later, except that the notice may be served and filed within 6 months after any default pursuant to a written contract.

3. The notice of the lien must contain:

(a) The amount due;

(b) The name of the owner of record of the property; and

(c) A description of the property sufficient for identification.

4. If the amount due as stated in the notice of lien is reduced by payments and any person listed in subsection 2 of NRS 108.665 gives written notice of that reduction to the county or district hospital which recorded the lien, the county or district hospital shall amend the notice of lien stating the amount then due, within 10 days after it receives the written notice.

5. A county or district hospital shall not assign, sell or transfer the interest of the hospital in a lien created pursuant to this section.

Sec. 10. **Any money that is reverted from the Health Insurance Flexibility and Accountability Holding Account in the State General Fund to the Fund for Hospital Care to Indigent Persons created by NRS 428.175 at the end of each fiscal year may be used to pay claims for any previous fiscal years, including, without limitation, claims incurred before July 1, 2005.**

~~[Sec. 10.]~~ ***Sec. 11.*** The amendatory provisions of **sections 1 to 9, inclusive, of** this act apply to any debt accrued on or after October 1, 2007.

Sec. 12. **1. This section and section 10 of this act become effective upon passage and approval.**

2. Sections 1 to 9, inclusive, and section 11 of this act become effective on October 1, 2007.

Assemblywoman Leslie moved that the Assembly concur in the Senate amendment to Assembly Bill No. 247.

Remarks by Assemblywoman Leslie.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 263.

The following Senate amendment was read:

Amendment No. 813.

AN ACT relating to children; making various changes to provisions governing the abuse and neglect of children; ~~[requiring district attorneys, under certain circumstances, to prosecute certain incidents involving a child fatality;]~~ **requiring the Division of Child and Family Services of the Department of Health and Human Services to carry out certain actions against certain agencies which provide child welfare services for failure to take corrective action;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes an agency which provides child welfare services to organize one or more multidisciplinary teams to review the death of a child. (NRS 432B.405) Section 4 of this bill authorizes the Administrator of the Division of Child and Family Services of the Department of Health and Human Services to organize a multidisciplinary team to oversee the child fatality review process for such agencies. Section 5 of this bill imposes civil penalties upon members of teams and committees involved in the child fatality review process who disclose any confidential information concerning the death of the child. ~~[Section 6 of this bill provides that multidisciplinary and administrative teams may hold a closed meeting, or portion thereof, to consider confidential information related to a child fatality. A multidisciplinary team must prepare a written summary of any meeting or hearing and make such summary available to the public upon request.~~

~~Section 7 of this bill requires a district attorney to notify the appropriate district court of any incident that involves a child fatality and of his decision whether or not to prosecute. Section 7 further requires that in certain counties a grand jury be impaneled to inquire into the incident if the prosecutor decides not to prosecute. The district attorney shall prosecute the case if the grand jury completes its inquiry and returns an indictment. Section 7 also requires the court to forward information received from the district attorneys to the Court Administrator. Section 20 of this bill requires the Court Administrator to compile the information and provide an annual report to the Director of the Legislative Counsel Bureau. The report also must be made available to the public.]~~

Section 8 of this bill requires the Division of Child and Family Services to evaluate child welfare services provided in this State and ~~[to take certain]~~ **provides that the Division must require** corrective action against an agency which provides child welfare services that fails to comply with federal or state laws relating to the provision of child welfare services. **If such an agency does not take corrective action within a timely manner, the Division shall take certain action against the agency.** (NRS 432B.180)

Section 12 of this bill expands existing law by authorizing a designee of an agency investigating a report of abuse or neglect of a child to interview a sibling of the child concerning any possible abuse or neglect without the consent of any person responsible for the child's welfare. (NRS 432B.270)

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

Section 1. NRS 432.0155 is hereby amended to read as follows:

432.0155 1. The Department, through the Division, is the sole state agency for the establishment of standards for the receipt of federal money in the field of ~~[~~juvenile~~]~~ ***:***

(a) Juvenile development and for programs to prevent, combat and control delinquency ~~[.]~~ ***; and***

(b) Child welfare and child welfare services.

➥ ***The Department, through the Division, shall enforce such standards.***

2. The Administrator, with the approval of the Director, may develop ***and enforce*** state plans, make reports to the Federal Government and comply with such other conditions as may be imposed by the Federal Government for the receipt of assistance for ~~[~~those~~]~~ ***such*** programs ~~[.]~~ ***and services described in subsection 1.*** In developing and revising state plans, the Administrator shall consider, among other things, the amount of money available from the Federal Government for ~~[~~those~~]~~ ***such*** programs and ***services,*** the conditions attached to that money ~~[,]~~ and the limitations of legislative appropriations for the programs ~~[.]~~ ***and services.***

~~[~~2.~~]~~ ***3.*** The Administrator shall cause to be deposited with the State Treasurer all money allotted to this State by the Federal Government for the purposes described in this section and shall cause to be paid out of the State Treasury the money therein deposited for those purposes.

4. As used in this section, "child welfare services" has the meaning ascribed to it in NRS 432B.044.

Sec. 2. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 7, inclusive, of this act.

Sec. 3. (Deleted by amendment.)

Sec. 4. ***1. The Administrator of the Division of Child and Family Services may organize a multidisciplinary team to oversee any review of the death of a child conducted by a multidisciplinary team that is organized by an agency which provides child welfare services pursuant to NRS 432B.405.***

2. A multidisciplinary team organized pursuant to subsection 1 is entitled to the same access and privileges granted to a multidisciplinary team to review the death of a child pursuant to NRS 432B.407.

Sec. 5. ***1. Each member of a multidisciplinary team organized pursuant to NRS 432B.405, a multidisciplinary team organized pursuant to section 4 of this act, an administrative team organized pursuant to NRS 432B.408 or the Executive Committee to Review the Death of Children established pursuant to NRS 432B.409 who discloses any confidential information concerning the death of a child is personally liable for a civil penalty of not more than $500.***

2. The Administrator of the Division of Child and Family Services:

(a) May bring an action to recover a civil penalty imposed pursuant to subsection 1 against a member of a multidisciplinary team organized pursuant to section 4 of this act, an administrative team or the Executive Committee; and

(b) Shall deposit any money received from the civil penalty with the State Treasurer for credit to the State General Fund.

3. Each director or other authorized representative of ~~[the]~~ an agency which provides child welfare services that organized a multidisciplinary team pursuant to NRS 432B.405:

(a) May bring an action to recover a civil penalty pursuant to subsection 1 against a member of the multidisciplinary team; and

(b) Shall deposit any money received from the civil penalty in the appropriate county treasury.

Sec. 6. ~~*[1. Except as otherwise provided in subsection 2, a meeting or hearing to carry out the purposes of this section and NRS 432B.403 to 432B.409, inclusive, and sections 4, 5 and 6 of this act that is held by a multidisciplinary team organized pursuant to NRS 432B.405 or an administrative team organized pursuant to NRS 432B.408 and any deliberations are subject to any provision of chapter 241 of NRS.*~~

~~*2. A multidisciplinary team or an administrative team may hold a closed meeting or close a portion of a meeting to discuss or consider confidential information concerning a particular child fatality or near fatality as defined in NRS 432B.290.*~~

~~*3. Within a reasonable time after holding a meeting or hearing to carry out the purposes of this section and NRS 432B.403 to 432B.409, inclusive, and sections 4, 5 and 6 of this act, a multidisciplinary team shall prepare a written summary of the meeting or hearing. The summary must be made available to the public upon request.]*~~ **(Deleted by amendment.)**

Sec. 7. ~~*[1. A district attorney shall notify the appropriate district court of any incident that involves a child fatality and of his decision whether or not to prosecute.*~~

~~*2. In a county whose population is 100,000 or more, when a district attorney notifies a district court pursuant to subsection 1 of a decision not to prosecute in relation to an incident that involves a child fatality:*~~

~~*(a) The district judge shall impanel a grand jury to inquire into the incident; and*~~

~~*(b) The district attorney shall appear before the grand jury and present evidence concerning the incident.*~~

~~*3. If the grand jury returns an indictment after inquiring into an incident that involves a child fatality:*~~

~~*(a) The indictment must be returned in the manner set forth in NRS 172.255; and*~~

~~*(b) The district attorney shall prosecute the person identified by the grand jury as having committed an offense.*~~

~~*4. The failure of the grand jury to return an indictment after inquiring into an incident that involves a child fatality does not prevent the district attorney from prosecuting a person who was a subject of the grand jury investigation if the district attorney subsequently discovers additional evidence against the person.*~~

~~*5. Each district court shall forward to the Court Administrator at such times as the Court Administrator requests:*~~

~~*(a) Any information received from a district attorney pursuant to this section concerning a child fatality;*~~

~~*(b) Information concerning whether a grand jury was impaneled; and*~~

~~*(c) If a grand jury was impaneled, whether the grand jury returned an indictment.]*~~ **(Deleted by amendment.)**

Sec. 8. NRS 432B.180 is hereby amended to read as follows:

432B.180 The Division of Child and Family Services shall:

1. Administer any money granted to the State by the Federal Government.

2. Plan, coordinate and monitor the delivery of child welfare services provided throughout the State.

3. Provide child welfare services directly or arrange for the provision of those services in a county whose population is less than 100,000.

4. Coordinate its activities with and assist the efforts of any law enforcement agency, a court of competent jurisdiction, an agency which provides child welfare services and any public or private organization which provides social services for the prevention, identification and treatment of abuse or neglect of children and for permanent placement of children.

5. Involve communities in the improvement of child welfare services.

6. Evaluate all child welfare services provided throughout the State and ~~[withhold money from any agency providing]~~ ***, if an agency which provides child welfare services is not complying with any federal or state law relating to the provision of child welfare services, regulations adopted pursuant to those laws or statewide plans or policies relating to the provision of child welfare services,*** ~~*[recommend]*~~ ***require corrective action*** ~~*[to]*~~ ***of the agency which provides child welfare services.***

7. If ~~*[the]*~~ ***an agency which provides child welfare services fails to take corrective action required pursuant to subsection 6 within a reasonable period,*** ~~*[the Division shall]*~~ ***take one or more of the following actions against*** ~~*[an]*~~ ***the agency which provides child welfare services:*** ~~[child welfare services which is not complying with the regulations adopted by the Division of Child and Family Services.~~

~~7. Evaluate the plans submitted for approval pursuant to NRS 432B.395.]~~

(a) Withhold money from the agency which provides child welfare services;

(b) Impose an administrative fine against the agency which provides child welfare services;

(c) Provide the agency which provides child welfare services with direct supervision and recover the cost and expenses incurred by the Division in providing such supervision; and

(d) Require the agency which provides child welfare services to determine whether it is necessary to impose disciplinary action that is consistent with the personnel rules of the agency which provides child welfare services against an employee who substantially contributes to the noncompliance of the agency which provides child welfare services with the federal or state laws, regulations adopted pursuant to such laws or statewide plans or policies, including, without limitation, suspension of the employee without pay, if appropriate.

➥ The Division shall adopt regulations to carry out the provisions of this subsection, including, without limitation, regulations which prescribe the circumstances under which action must be taken against an agency which provides child welfare services for failure to take corrective action and which specify that any such action by the Division must not impede the provision of child welfare services.

8. ~~[7.]~~ In consultation with each agency which provides child welfare services, request sufficient money for the provision of child welfare services throughout this State.

~~[8.]~~ ***9. Deposit any money received from the administrative fines imposed pursuant to this section with the State Treasurer for credit to the State General Fund. The State Treasurer shall account separately for the money deposited pursuant to this subsection. The money in the account may only be used by the Division to improve the provision of child welfare services in this State*** ~~[.]~~ ***, including, without limitation:***

(a) To pay the costs associated with providing training and technical assistance and conducting quality improvement activities for an agency which provides child welfare services to assist the agency in any area in which the agency has failed to take corrective action; and

(b) Hiring a qualified consultant to conduct such training, technical assistance and quality improvement activities.

Sec. 9. NRS 432B.190 is hereby amended to read as follows:

432B.190 The Division of Child and Family Services shall, in consultation with each agency which provides child welfare services, adopt:

1. Regulations establishing reasonable and uniform standards for:

(a) Child welfare services provided in this State;

(b) Programs for the prevention of abuse or neglect of a child and the achievement of the permanent placement of a child;

(c) The development of local councils involving public and private organizations;

(d) Reports of abuse or neglect, records of these reports and the response to these reports;

(e) Carrying out the provisions of NRS 432B.260, including, without limitation, the qualifications of persons with whom agencies which provide

child welfare services enter into agreements to provide services to children and families;

(f) The management and assessment of reported cases of abuse or neglect;

(g) The protection of the legal rights of parents and children;

(h) Emergency shelter for a child;

(i) The prevention, identification and correction of abuse or neglect of a child in residential institutions;

(j) ~~[Evaluating the development and contents of a plan submitted for approval pursuant to NRS 432B.395;~~

~~(k)]~~ Developing and distributing to persons who are responsible for a child's welfare a pamphlet that is written in language which is easy to understand, is available in English and in any other language the Division determines is appropriate based on the demographic characteristics of this State and sets forth:

(1) Contact information regarding persons and governmental entities which provide assistance to persons who are responsible for the welfare of children, including, without limitation, persons and entities which provide assistance to persons who are being investigated for allegedly abusing or neglecting a child;

(2) The procedures for taking a child for placement in protective custody; and

(3) The state and federal legal rights of:

(I) A person who is responsible for a child's welfare and who is the subject of an investigation of alleged abuse or neglect of a child, including, without limitation, the legal rights of such a person at the time an agency which provides child welfare services makes initial contact with the person in the course of the investigation and at the time the agency takes the child for placement in protective custody, and the legal right of such a person to be informed of any allegation of abuse or neglect of a child which is made against the person at the initial time of contact with the person by the agency; and

(II) Persons who are parties to a proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, during all stages of the proceeding; and

~~[(l)]~~ ***(k)*** Making the necessary inquiries required pursuant to NRS 432B.397 to determine whether a child is an Indian child; and

2. Such other regulations as are necessary for the administration of NRS 432B.010 to 432B.606, inclusive ~~[.]~~ ***, and sections 4 and 5 of this act.***

Sec. 10. 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, alcohol or 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 ***an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and*** the appropriate medical examiner or coroner ~~[, who]~~ ***of the report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner or coroner who is notified of a report pursuant to this subsection*** shall investigate the report and submit ***his written findings*** to ~~[an]~~ ***the appropriate*** agency which provides child welfare services ~~[his written findings.]~~ ***, the appropriate district attorney and a law enforcement agency.*** The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 11. NRS 432B.260 is hereby amended to read as follows:

432B.260 1. Upon the receipt of a report concerning the possible abuse or neglect of a child, an agency which provides child welfare services or a law enforcement agency shall promptly notify the appropriate licensing authority, if any. A law enforcement agency shall promptly notify an agency which provides child welfare services of any report it receives.

2. Upon receipt of a report concerning the possible abuse or neglect of a child, an agency which provides child welfare services or a law enforcement agency shall immediately initiate an investigation if the report indicates that:

(a) The child is 5 years of age or younger;

(b) There is a high risk of serious harm to the child; ~~[or]~~

(c) ***The child has suffered a fatality; or***

(d) The child is living in a household in which another child has died, or the child is seriously injured or has visible signs of physical abuse.

3. Except as otherwise provided in subsection 2, upon receipt of a report concerning the possible abuse or neglect of a child or notification from a law enforcement agency that the law enforcement agency has received such a report, an agency which provides child welfare services shall conduct an evaluation not later than 3 days after the report or notification was received to determine whether an investigation is warranted. For the purposes of this subsection, an investigation is not warranted if:

(a) The child is not in imminent danger of harm;

(b) The child is not vulnerable as the result of any untreated injury, illness or other physical, mental or emotional condition that threatens his immediate health or safety;

(c) The alleged abuse or neglect of the child or the alleged effect of prenatal illegal substance abuse on or the withdrawal symptoms resulting from ***any*** prenatal drug exposure of the newborn infant could be eliminated if the child and his family ~~[receive]~~ ***are referred to*** or participate in social or health services offered in the community, or both; or

(d) The agency determines that the:

(1) Alleged abuse or neglect was the result of the reasonable exercise of discipline by a parent or guardian of the child involving the use of corporal punishment, including, without limitation, spanking or paddling; and

(2) Corporal punishment so administered was not so excessive as to constitute abuse or neglect as described in NRS 432B.150.

4. If the agency determines that an investigation is warranted, the agency shall initiate the investigation not later than 3 days after the evaluation is completed.

5. If an agency which provides child welfare services investigates a report of alleged abuse or neglect of a child pursuant to NRS 432B.010 to 432B.400, inclusive, the agency shall inform the person responsible for the child's welfare who is named in the report as allegedly causing the abuse or neglect of the child of any allegation which is made against the person at the initial time of contact with the person by the agency. The agency shall not identify the person responsible for reporting the alleged abuse or neglect.

6. Except as otherwise provided in this subsection, if the agency determines that an investigation is not warranted, the agency may, as appropriate:

(a) Provide counseling, training or other services relating to child abuse and neglect to the family of the child, or refer the family to a person who has entered into an agreement with the agency to provide those services; or

(b) Conduct an assessment of the family of the child to determine what services, if any, are needed by the family and, if appropriate, provide any such services or refer the family to a person who has entered into a written agreement with the agency to make such an assessment.

➥ If an agency determines that an investigation is not warranted for the reason set forth in paragraph (d) of subsection 3, the agency shall take no further action in regard to the matter and shall delete all references to the matter from its records.

7. If an agency which provides child welfare services enters into an agreement with a person to provide services to a child or his family pursuant to subsection 6, the agency shall require the person to notify the agency if the child or his family ~~[refuse or fail]~~ ***refuses or fails*** to participate in the services, or if the person determines that there is a serious risk to the health or safety of the child.

8. An agency which provides child welfare services that determines that an investigation is not warranted may, at any time, reverse that determination and initiate an investigation.

9. An agency which provides child welfare services and a law enforcement agency shall cooperate in the investigation, if any, of a report of abuse or neglect of a child.

Sec. 12. NRS 432B.270 is hereby amended to read as follows:

432B.270 1. A designee of an agency investigating a report of abuse or neglect of a child may, without the consent of and outside the presence of any person responsible for the child's welfare, interview a child ***and any sibling of the child*** **, *if an interview is deemed appropriate by the designee,*** concerning any possible abuse or neglect. The child ***and any sibling of the child*** may be interviewed **, *if an interview is deemed appropriate by the designee,*** at any place where ~~[he]~~ ***the child or his sibling*** is found. ***A designee who conducts an interview pursuant to this subsection must be trained adequately to interview children.*** The designee shall, immediately after the conclusion of the interview, if reasonably possible, notify a person responsible for the child's welfare that the child ***or his sibling*** was interviewed, unless the designee determines that such notification would endanger the child ~~[.]~~ ***or his sibling.***

2. A designee of an agency investigating a report of abuse or neglect of a child may, without the consent of the person responsible for a child's welfare:

(a) Take or cause to be taken photographs of the child's body, including the areas of trauma; and

(b) If indicated after consultation with a physician, cause X rays or medical tests to be performed on a child.

3. Upon the taking of any photographs or X rays or the performance of any medical tests pursuant to subsection 2, the person responsible for the child's welfare must be notified immediately, if reasonably possible, unless the designee determines that the notification would endanger the child. The reasonable cost of these photographs, X rays or medical tests must be paid by the agency which provides child welfare services if money is not otherwise available.

4. Any photographs or X rays taken or records of any medical tests performed pursuant to subsection 2, or any medical records relating to the examination or treatment of a child pursuant to this section, or copies thereof, must be sent to the agency which provides child welfare services, the law enforcement agency participating in the investigation of the report and the prosecuting attorney's office. Each photograph, X ray, result of a medical test or other medical record:

(a) Must be accompanied by a statement or certificate signed by the custodian of medical records of the health care facility where the photograph or X ray was taken or the treatment, examination or medical test was performed, indicating:

(1) The name of the child;

(2) The name and address of the person who took the photograph or X ray, performed the medical test, or examined or treated the child; and

(3) The date on which the photograph or X ray was taken or the treatment, examination or medical test was performed;

(b) Is admissible in any proceeding relating to the abuse or neglect of the child; and

(c) May be given to the child's parent or guardian if he pays the cost of duplicating them.

5. As used in this section, "medical test" means any test performed by or caused to be performed by a provider of health care, including, without limitation, a computerized axial tomography scan and magnetic resonance imaging.

Sec. 13. NRS 432B.280 is hereby amended to read as follows:

432B.280 1. ~~[~~Reports~~]~~ ***Except as otherwise*** ~~*[provided in subsection 2 of]*~~ ***authorized or required pursuant to NRS 432B.290, reports*** made pursuant to this chapter, as well as all records concerning these reports and investigations thereof, are confidential.

2. Any person, law enforcement agency or public agency, institution or facility who willfully releases data or information concerning such reports and investigations, except:

(a) Pursuant to a criminal prosecution relating to the abuse or neglect of a child;

(b) As otherwise authorized or required pursuant to NRS 432B.290; or

(c) As otherwise required pursuant to NRS 432B.513,

➥ is guilty of a misdemeanor.

Sec. 14. (Deleted by amendment.)

Sec. 15. NRS 432B.300 is hereby amended to read as follows:

432B.300 Except as otherwise provided in NRS 432B.260, an agency which provides child welfare services shall investigate each report of abuse or neglect received or referred to it to determine:

1. The composition of the family, household or facility, including the name, address, age, sex and race of each child named in the report, any siblings or other children in the same place or under the care of the same person, the persons responsible for the children's welfare and any other adult living or working in the same household or facility;

2. Whether there is reasonable cause to believe any child is abused or neglected or threatened with abuse or neglect, the nature and extent of existing or previous injuries, abuse or neglect and any evidence thereof, and the person apparently responsible;

3. ***Whether there is reasonable cause to believe that a child has suffered a fatality as a result of abuse or neglect regardless of whether or not there are any siblings of the child or other children who are residing in the same household as the child who is believed to have suffered a fatality as a result of abuse or neglect;***

4. If there is reasonable cause to believe that a child is abused or neglected, the immediate and long-term risk to the child if he remains in the same environment; and

~~[4.]~~ ***5.*** The treatment and services which appear necessary to help prevent further abuse or neglect and to improve his environment and the ability of the person responsible for the child's welfare to care adequately for him.

Sec. 16. NRS 432B.310 is hereby amended to read as follows:

432B.310 1. Except as otherwise provided in subsection 6 of NRS 432B.260, the agency investigating a report of abuse or neglect of a child shall, upon completing the investigation, report to the Central Registry:

(a) Identifying and demographic information on the child alleged to be abused or neglected, his parents, any other person responsible for his welfare and the person allegedly responsible for the abuse or neglect;

(b) The facts of the alleged abuse or neglect, including the date and type of alleged abuse or neglect, the manner in which the abuse was inflicted ***,*** ~~[and]~~ the severity of the injuries ~~[;]~~ ***and, if applicable, any information concerning the death of the child;*** and

(c) The disposition of the case.

2. An agency which provides child welfare services shall not report to the Central Registry any information concerning a child identified as being affected by prenatal illegal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure unless the agency determines that a person has abused or neglected the child.

3. As used in this section, "Central Registry" has the meaning ascribed to it in NRS 432.0999.

Sec. 17. NRS 432B.403 is hereby amended to read as follows:

432B.403 The purpose of organizing multidisciplinary teams to review the deaths of children pursuant to NRS 432B.403 to 432B.409, inclusive, ***and sections 4 ~~[,]~~ and 5 ~~[and 6]~~ of this act*** is to:

1. Review the records of selected cases of deaths of children under 18 years of age in this State;

2. Review the records of selected cases of deaths of children under 18 years of age who are residents of Nevada and who die in another state;

3. Assess and analyze such cases;

4. Make recommendations for improvements to laws, policies and practice;

5. Support the safety of children; and

6. Prevent future deaths of children.

Sec. 18. NRS 432B.405 is hereby amended to read as follows:

432B.405 1. ~~[An]~~ ***The director or other authorized representative of an*** agency which provides child welfare services:

(a) May ***provisionally appoint and*** organize one or more multidisciplinary teams to review the death of a child; ~~[and]~~

(b) ***Shall submit names to the Executive Committee to Review the Death of Children established pursuant to NRS 432B.409 for review and approval of persons whom the director or other authorized representative recommends for appointment to a multidisciplinary team to review the death of a child; and***

(c) Shall organize one or more multidisciplinary teams to review the death of a child under any of the following circumstances:

(1) Upon receiving a written request from an adult related to the child within the third degree of consanguinity, if the request is received by the agency within 1 year after the date of death of the child;

(2) If the child dies while in the custody of or involved with an agency which provides child welfare services, or if the child's family previously received services from such an agency;

(3) If the death is alleged to be from abuse or neglect of the child;

(4) If a sibling, household member or daycare provider has been the subject of a child abuse and neglect investigation within the previous 12 months, including ***, without limitation,*** cases in which the report was unsubstantiated or the investigation is currently pending;

(5) If the child was adopted through an agency which provides child welfare services; or

(6) If the child died of Sudden Infant Death Syndrome.

2. A review conducted pursuant to subparagraph (2) of paragraph ~~[(b)]~~ ***(c)*** of subsection 1 must occur within 3 months after the issuance of a certificate of death.

Sec. 19. NRS 432B.409 is hereby amended to read as follows:

432B.409 1. The Administrator of the Division of Child and Family Services shall establish an Executive Committee to Review the Death of Children, consisting of representatives from multidisciplinary teams formed

pursuant to ***paragraph (a) of subsection 1 of*** NRS 432B.405 and ***NRS*** 432B.406, vital statistics, law enforcement, public health and the Office of the Attorney General.

2. The Executive Committee shall:

(a) Adopt statewide protocols for the review of the death of a child;

(b) ~~[Designate the members of an administrative team for the purposes of NRS 432B.408;]~~ ***Adopt regulations to carry out the provisions of NRS 432B.403 to 432B.409, inclusive, and sections 4 ~~[,]~~ and 5 ~~[and 6]~~ of this act;***

(c) Adopt bylaws to govern the management and operation of the Executive Committee;

(d) Appoint one or more multidisciplinary teams to review the death of a child from the names submitted to the Executive Committee pursuant to paragraph (b) of subsection 1 of NRS 432B.405;

~~[(c)]~~ ***(e)*** Oversee training and development of multidisciplinary teams to review the death of children; and

~~[(d)]~~ ***(f)*** Compile and distribute a statewide annual report, including statistics and recommendations for regulatory and policy changes.

3. The Review of Death of Children Account is hereby created in the State General Fund. The Executive Committee may use money in the Account to carry out the provisions of NRS 432B.403 to 432B.409, inclusive ~~[.]~~ ***, and sections 4 ~~[,]~~ and 5 ~~[and 6]~~ of this act.***

Sec. 20. ~~[Chapter 2 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. On or before February 1 of each year, the Court Administrator shall submit a report to the Director of the Legislative Counsel Bureau compiling the information received pursuant to section 7 of this act. The report must include, without limitation:*~~

~~*(a) The name of each child who suffered a child fatality in this State during the previous calendar year;*~~

~~*(b) Whether the district attorney prosecuted the case;*~~

~~*(c) Whether the district court impaneled a grand jury to inquire into the incident; and*~~

~~*(d) If a grand jury was impaneled, whether the grand jury returned an indictment in the case.*~~

~~*2. The report prepared pursuant to this section must be made available to the public.]*~~ **(Deleted by amendment.)**

Sec. 21. NRS 432B.395 is hereby repealed.

Sec. 22. **1. The Department of Health and Human Services shall submit a report to the Interim Finance Committee, the Legislative Committee on Health Care and any other interim committee of the Nevada Legislature that has oversight of child welfare services concerning each action taken pursuant to subsection 7 of NRS 432B.180, as amended by section 8 of this act, during the 2007-2009 interim. Each report must be submitted within 30 days after the Division of Child and**

Family Services of the Department has taken action against an agency which provides child welfare services for failure to take corrective action and must include, without limitation:

(a) The action taken by the Division;

(b) The purpose for taking such action, including, without limitation, the corrective action that the agency failed to take;

(c) The amount of money withheld from the agency or the amount of the administrative fine imposed against the agency, if applicable; and

(d) If an administrative fine was imposed pursuant NRS 432B.180, the manner in which the Division expended the money.

2. On or before January 1, 2009, the Department shall submit to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature a cumulative summary of all reports submitted pursuant to subsection 1.

TEXT OF REPEALED SECTION

432B.395 Plan of efforts to prevent or eliminate need for removal of child from home and to make safe return to home possible. An agency which provides child welfare services shall submit annually to the Division of Child and Family Services for its approval a plan to ensure that the reasonable efforts required by subsection 1 of NRS 432B.393 are made by that agency.

Assemblywoman Leslie moved that the Assembly concur in the Senate amendment to Assembly Bill No. 263.

Remarks by Assemblywoman Leslie.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 410.

The following Senate amendment was read:

Amendment No. 834.

AN ACT relating to public health; requiring the Department of Health and Human Services to establish an immunization information system; requiring the State Board of Health to adopt regulations governing the immunization information system to collect certain information concerning the immunization of children in this State; requiring the Department to study the feasibility of allowing private entities to purchase immunizations through the Department; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the immunization of children in public schools, private schools and child care facilities in certain circumstances. (NRS 392.435-392.448, 394.192-394.199, 432A.230-432A.270) Section 1 of this bill requires the Department of Health and Human Services to establish an immunization information system to be administered by the State Board of Health to collect certain statistical information concerning the immunization

of children in this State. Section 1 **also** requires the State Board of Health to establish certain forms to be used to report information and inform the parent or guardian of a child about the system. Section 1 also requires a person who administers an immunization to a child to report certain information concerning the immunization of any child on or after July 1, 2009, to the Department for inclusion in the immunization information system unless the parent or guardian of the child declines inclusion of information concerning his child in the system.

Section ~~[2]~~ **3** of this bill requires the Department to study the feasibility of offering group purchasing plans to allow private entities to purchase immunizations through the Department at the lowest negotiated price. The Department is required to report the results of its study to the Legislative Committee on Health Care.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall establish an immunization information system to collect information concerning the immunization of children in this State. The immunization information system must be administered by the State Board of Health.

2. Except as otherwise provided in subsection ~~[3,]~~ 4, a person who administers any immunization to a child which is recommended and approved by the United States Public Health Service Advisory Committee on Immunization Practices, or its successor organization, on or after July 1, 2009, shall report information concerning the child and the immunization provided to the child to the Department for inclusion in the immunization information system. The information reported must include, without limitation:

(a) The immunization provided to the child;

(b) The name of the child;

(c) Demographic information concerning the child, including, without limitation, the age, gender and race of the child; and

(d) Any other information required by regulation of the State Board of Health ~~[.]~~ , taking into consideration applicable requirements for information relating to the immunization of children of:

(1) The Centers for Disease Control and Prevention of the United States Department of Health and Human Services; and

(2) Any other governmental entity.

3. A person who reports information pursuant to subsection 2 may also report information concerning the history of the immunizations of the child if known to the Department for inclusion in the immunization information system.

4. The State Board of Health shall establish the form for reporting information to the Department for inclusion in the immunization information system and the form which the person administering the immunization must provide to the parent or guardian of the child receiving the immunization. The form provided to the parent or guardian must inform the parent or guardian about the immunization information system and must allow the parent or guardian to decline inclusion of the information concerning his child in the system.

5. The information in the immunization information system may only be disclosed to any person who administers immunizations to a child to determine the immunization status of the child and to the persons or governmental entities authorized pursuant to the regulations adopted by the State Board of Health.

6. The State Board of Health shall adopt regulations to carry out the provisions of this section.

Sec. 2. The Department of Health and Human Services shall establish incentives to encourage persons who administer immunizations to report as much information as is available to them for inclusion in the immunization information system.

Sec. 3. 1. The Department of Health and Human Services shall study the feasibility of offering group purchasing plans to private entities that administer immunizations to allow such private entities to purchase immunizations through the Department at the lowest negotiated rate.

2. The Department shall report to the Legislative Committee on Health Care the results of its study and any progress it has made toward establishing group purchasing plans for immunizations on or before January 30, 2008, and at such other times as requested by the Legislative Committee on Health Care.

Sec. 4. This act becomes effective on July 1, 2007.

Assemblywoman Leslie moved that the Assembly concur in the Senate amendment to Assembly Bill No. 410.

Remarks by Assemblywoman Leslie.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 490.

The following Senate amendment was read:

Amendment No. 817.

AN ACT relating to mentally ill persons; requiring a court to seal **certain** records relating to a person admitted to a public or private mental health facility or hospital under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law allows a person who has been admitted to a mental health facility to file a petition to seal court and clinical records relating to his

admission and treatment. (NRS 433A.703) If the court finds that the person has recovered or his illness is in substantial remission, the court must seal all court and clinical records relating to the person's admission and treatment. (NRS 433A.709) The effect of the sealing of such records is that the person's admission is deemed never to have occurred and the person may answer any question relating to the admission as if the admission had never occurred. (NRS 433A.711) **Section 2 of this bill repeals these provisions relating to petitioning a court to seal court and clinical records. (NRS 433A.701-433A.711)**

Section 1 of this bill requires a court to seal all court ~~[and clinical]~~ records relating to the admission and treatment of a person who has been admitted to a public or private hospital or mental health facility for the purpose of obtaining mental health treatment, either voluntarily or as the result of a noncriminal proceeding. However, under section 1, a court may order the inspection of these records under certain circumstances if the court holds a hearing and the person who is seeking to inspect the records provides notice of the hearing to the person who is the subject of the records. A governmental entity may inspect court records sealed pursuant to section 1 without following these procedures if the governmental entity has made a conditional offer of certain employment concerning public safety to the person and that person provides written consent to the inspection of the records. **A court may, upon its own order, inspect records sealed pursuant to section 1 without following these procedures if the records are necessary and relevant for the disposition of a matter pending before the court.** The effect of the sealing of such records is that the person's admission is deemed never to have occurred and the person may answer any question relating to the admission as if the admission had never occurred, except under certain circumstances.

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

Section 1. Chapter 433A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A court shall seal all court ~~[and clinical]~~ records relating to the admission and treatment of any person who was admitted, voluntarily or as the result of a noncriminal proceeding, to a public or private hospital or mental health facility in this State for the purpose of obtaining mental health treatment.

2. Except as otherwise provided in ~~[subsection]~~ subsections 4 ~~[,]~~ and 5, a person or governmental entity that wishes to inspect records that are sealed pursuant to this section must file a petition with the court that sealed the records. Upon the filing of a petition, the court shall fix a time for a hearing of the matter. The petitioner must provide notice of the hearing and a copy of the petition to the person who is the subject of the records. If the person who is the subject of the records wishes to oppose the petition,

the person must appear before the court at the hearing. If the person appears before the court at the hearing, the court must provide the person an opportunity to be heard on the matter.

3. After the hearing described in subsection 2, the court may order the inspection of records that are sealed pursuant to this section if:

(a) A law enforcement agency must obtain or maintain information concerning persons who have been admitted to a public or private hospital or mental health facility in this State pursuant to state or federal law;

(b) A prosecuting attorney or an attorney who is representing the person who is the subject of the records in a criminal action requests to inspect the records; or

(c) The person who is the subject of the records petitions the court to permit the inspection of the records by a person named in the petition. ~~[;~~ ~~or~~

~~*(d) The person who is the subject of the records is being treated by a physician or licensed psychologist, and the physician or psychologist:*~~

~~*(1) Determines that it is necessary to obtain a copy of the person's records from the public or private hospital or mental health facility; and*~~

~~*(2) Agrees to use the records solely for the medical treatment or medical analysis of the person.]*~~

4. A governmental entity is entitled to inspect court records that are sealed pursuant to this section without following the procedure described in subsection 2 if:

(a) The governmental entity has made a conditional offer of employment to the person who is the subject of the records;

(b) The position of employment conditionally offered to the person concerns public safety, including, without limitation, employment as a firefighter or peace officer;

(c) The governmental entity is required by law, rule, regulation or policy to obtain the mental health records of each individual conditionally offered the position of employment; and

(d) An authorized representative of the governmental entity presents to the court a written authorization signed by the person who is the subject of the records and notarized by a notary public or judicial officer in which the person who is the subject of the records consents to the inspection of the records.

5. Upon its own order, any court of this State may inspect court records that are sealed pursuant to this section without following the procedure described in subsection 2 if the records are necessary and relevant for the disposition of a matter pending before the court. The court may allow a party in the matter to inspect the records without following the procedure described in subsection 2 if the court deems such inspection necessary and appropriate.

6. Following the sealing of records pursuant to this section, the admission of the person who is the subject of the records to the public or

private hospital or mental health facility is deemed never to have occurred, and the person may answer accordingly any question related to its occurrence, except in connection with:

(a) An application for a permit to carry a concealed firearm pursuant to the provisions of NRS 202.3653 to 202.369, inclusive;

(b) A transfer of a firearm; or

(c) An application for a position of employment described in subsection 4.

~~*[6.]*~~ ***7. As used in this section:***

(a) "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. As used in this paragraph, "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.

(b) "Peace officer" has the meaning ascribed to it in NRS 289.010.

(c) "Seal" means placing records in a separate file or other repository not accessible to the general public.

Sec. 2. NRS 433A.701, 433A.703, 433A.705, 433A.707, 433A.709 and 433A.711 are hereby repealed.

Sec. 3. This act becomes effective on July 1, 2007.

LEADLINES OF REPEALED SECTIONS

433A.701 Definitions.
433A.703 Right to petition for sealing of records.
433A.705 Petition: Filing, contents and supplemental documents.
433A.707 Notice of hearing on petition.
433A.709 Hearing; determination; court order.
433A.711 Effect of sealing records; inspection after sealing.

Assemblywoman Leslie moved that the Assembly concur in the Senate amendment to Assembly Bill No. 490.

Remarks by Assemblywoman Leslie.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Leslie moved that the Assembly do not recede from its action on Senate Bill No. 244, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Leslie.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Gerhardt, Pierce, and Stewart as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 244.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 521.

The following Senate amendment was read:

Amendment No. 784.

AN ACT relating to crimes; providing that it is unlawful for a person to engage in certain fraudulent acts in the course of an enterprise or occupation; **establishing the crime of participating in an organized retail theft ring;** revising provisions relating to the crime of racketeering; **authorizing the Attorney General to institute certain civil proceedings to enforce the provisions relating to deceptive trade practices; providing for the sharing of information and intelligence between the Attorney General and a state or federal investigative agency under certain circumstances; authorizing the Attorney General to seek certain equitable relief for violations of law relating to unfair trade practices; revising certain provisions relating to unfair trade practices;** providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes various crimes relating to fraud. (Chapter 205 of NRS) Section ~~[2]~~ **3** of this bill, which is patterned in part after existing securities laws, provides that a person commits a category B felony if the person knowingly or intentionally engages in at least two similar transactions within 4 years after the completion of the first transaction by engaging in an act, practice or course of business or employing a device, scheme or artifice to defraud another person by making an untrue statement of fact or not stating a material fact necessary in light of the circumstances which: (1) the person knows to be false; (2) the person intends another to rely on; and (3) which causes a loss to any person who relied on the false statement or omission of material fact. (NRS 90.570) Section 1 of this bill imposes an additional penalty against a person who commits the new crime established by section ~~[2]~~ **3** against a person who is 60 years of age or older or a vulnerable person. (NRS 193.167) Section ~~[3]~~ **8** of this bill revises the definition of a crime related to racketeering to include the new crime established by section ~~[2.]~~ **3.** Section ~~[5]~~ **10** of this bill provides that a prosecution of the new crime established by section ~~[2]~~ **3** must be commenced within 4 years after the crime is committed.

Existing law establishes various crimes relating to racketeering activity. (NRS 207.400) Section ~~[4]~~ **9** of this bill prohibits a person from transporting property, attempting to transport property or providing property to another person knowing that the other person intends to use the property to further

racketeering activity. In addition, section ~~[4]~~ **9** prohibits a person who knows that property represents proceeds of any unlawful activity to conduct or attempt to conduct any transaction involving the property with the intent to further racketeering activity or with the knowledge that the transaction conceals the location, source, ownership or control of the property. (NRS 207.400)

Section 4 of this bill provides that a person who participates in an organized retail theft ring is guilty of a category B felony, punishable by imprisonment for: (1) a minimum term of not less than 1 year and a maximum term of not more than 10 years, if the aggregated value of the property involved in all thefts committed by the organized retail theft ring during a period of 90 days is at least $2,500 but less than $10,000; or (2) a minimum term of not less than 2 years and a maximum term of not more than 15 years, if the aggregated value of the property involved in all thefts committed by the organized retail theft ring during a period of 90 days is $10,000 or more.

Existing law authorizes the Attorney General to institute criminal proceedings to enforce the provisions of law regarding deceptive trade practices. (NRS 598.0963) Section 11 of this bill provides that the Attorney General may also institute civil proceedings to enforce those provisions.

Existing law authorizes the disclosure to the Attorney General of certain information relating to criminal investigations. (NRS 598.098, 598A.080, 598A.110) Sections 12, 15 and 17 of this bill authorize further sharing of information between the Attorney General and state and federal investigative agencies under specified conditions.

Existing law authorizes the Attorney General to institute proceedings against alleged violators of the laws concerning unfair trade practices for civil and criminal penalties. (NRS 598A.070, 598A.090) Sections 14 and 16 of this bill authorize the Attorney General to seek other relief, including, without limitation, restitution and disgorgement.

Existing law authorizes the Attorney General to bring a civil action for any violation of the provisions of law regarding unfair trade practices and to recover the damages sustained by the person on whose behalf the Attorney General brings the action. (NRS 598A.160) Section 18 of this bill allows the Attorney General to recover treble the damages sustained by the person on whose behalf the Attorney General brings the action.

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

Section 1. NRS 193.167 is hereby amended to read as follows:

193.167 1. Except as otherwise provided in NRS 193.169, any person who commits the crime of:

(a) Murder;

(b) Attempted murder;

(c) Assault;

(d) Battery;

(e) Kidnapping;

(f) Robbery;

(g) Sexual assault;

(h) Embezzlement of money or property of a value of $250 or more;

(i) Obtaining money or property of a value of $250 or more by false pretenses; or

(j) Taking money or property from the person of another,

➥ against any person who is 60 years of age or older or against a vulnerable person shall be punished by imprisonment in the county jail or state prison, whichever applies, for a term equal to and in addition to the term of imprisonment prescribed by statute for the crime. The sentence prescribed by this subsection must run consecutively with the sentence prescribed by statute for the crime.

2. Except as otherwise provided in NRS 193.169, any person who commits a criminal violation of the provisions of chapter 90 or 91 of NRS ***or section ~~[2]~~ 3 of this act*** against any person who is 60 years of age or older or against a vulnerable person shall be punished by imprisonment in the county jail or state prison, whichever applies, for a term equal to and in addition to the term of imprisonment prescribed by statute for the criminal violation. The sentence prescribed by this subsection must run consecutively with the sentence prescribed by statute for the criminal violation.

3. This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

4. As used in this section, "vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.

Sec. 2. Chapter 205 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 3 and 4 of this act.**

Sec. 3. 1. A person shall not, in the course of an enterprise or occupation, knowingly and with the intent to defraud, engage in an act, practice or course of business or employ a device, scheme or artifice which operates or would operate as a fraud or deceit upon a person by means of a false representation or omission of a material fact that:

(a) The person knows to be false;

(b) The person intends another to rely on; and

(c) Results in a loss to any person who relied on the false representation or omission,

➥ in at least two transactions that have the same or similar pattern, intents, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated incidents within 4 years and in which the aggregate loss or intended loss is more than $250.

2. Each act which violates subsection 1 constitutes a separate offense.

3. A person who violates 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 and a maximum term of not more than 20 years, and may be further punished by a fine of not more than $10,000.

4. In addition to any other penalty, the court shall order a person who violates subsection 1 to pay restitution.

5. As used in this section, "enterprise" has the meaning ascribed to it in NRS 207.380.

Sec. 4. *1. A person who participates in an organized retail theft ring that has committed three or more thefts of retail merchandise in this State during a period of 90 days is guilty of a category B felony and shall be punished by imprisonment in the state prison for:*

(a) If the aggregated value of the property involved in all thefts committed by the organized retail theft ring in this State during that 90-day period is at least $2,500 but less than $10,000, a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than $10,000.

(b) If the aggregated value of the property involved in all thefts committed during that 90-day period is $10,000 or more, a minimum term of not less than 2 years and a maximum term of not more than 15 years, and by a fine of not more than $20,000.

2. In addition to any other penalty, the court shall order a person who violates this section to pay restitution.

3. For the purposes of this section, in determining the aggregated value of the property involved in all thefts committed by an organized retail theft ring in this State during a period of 90 days:

(a) The amount involved in a single theft shall be deemed to be the highest value, by any reasonable standard, of the property which is obtained; and

(b) The amounts involved in all thefts committed by all participants in the organized retail theft ring must be aggregated.

4. In any prosecution for a violation of this section, the violation shall be deemed to have been committed and may be prosecuted in any jurisdiction in this State in which any theft committed by any participant in an organized retail theft ring was committed, regardless of whether the defendant was ever physically present in that jurisdiction.

5. As used in this section:

(a) "Merchant" has the meaning ascribed to it in NRS 597.850.

(b) "Organized retail theft ring" means three or more persons who associate for the purpose of engaging, and one or more of whom engage, in the conduct of committing a series of thefts of retail merchandise against more than one merchant in this State or against one merchant but at more than one location of a retail business of the merchant in this State.

Sec. 5. **NRS 205.0821 is hereby amended to read as follows:**

205.0821 As used in NRS 205.0821 to 205.0835, inclusive, ***and section 4 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 205.0822 to 205.0831, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. **NRS 205.0833 is hereby amended to read as follows:**

205.0833 1. Conduct denominated theft in NRS 205.0821 to 205.0835, inclusive, ***and section 4 of this act*** constitutes a single offense embracing the separate offenses commonly known as larceny, receiving or possessing stolen property, embezzlement, obtaining property by false pretenses, issuing a check without sufficient money or credit, and other similar offenses.

2. A criminal charge of theft may be supported by evidence that an act was committed in any manner that constitutes theft pursuant to NRS 205.0821 to 205.0835, inclusive, ***and section 4 of this act*** notwithstanding the specification of a different manner in the indictment or information, subject to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief if it determines that, in a specific case, strict application of the provisions of this subsection would result in prejudice to the defense by lack of fair notice or by surprise.

Sec. 7. **NRS 205.0835 is hereby amended to read as follows:**

205.0835 1. Unless a greater penalty is imposed by a specific statute ~~[,]~~ ***and unless the provisions of section 4 of this act apply under the circumstances,*** a person who commits theft in violation of any provision of NRS 205.0821 to 205.0835, inclusive, ***and section 4 of this act*** shall be punished pursuant to the provisions of this section.

2. If the value of the property or services involved in the theft is less than $250, the person who committed the theft is guilty of a misdemeanor.

3. If the value of the property or services involved in the theft is $250 or more but less than $2,500, the person who committed the theft is guilty of a category C felony and shall be punished as provided in NRS 193.130.

4. If the value of the property or services involved in the theft is $2,500 or more, the person who committed the theft is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than $10,000.

5. In addition to any other penalty, the court shall order the person who committed the theft to pay restitution.

~~[Sec. 3.]~~ ***Sec. 8.*** NRS 207.360 is hereby amended to read as follows:

207.360 ”Crime related to racketeering” means the commission of, attempt to commit or conspiracy to commit any of the following crimes:

1. Murder;

2. Manslaughter, except vehicular manslaughter as described in NRS 484.3775;

3. Mayhem;

4. Battery which is punished as a felony;

5. Kidnapping;

6. Sexual assault;
7. Arson;
8. Robbery;
9. Taking property from another under circumstances not amounting to robbery;
10. Extortion;
11. Statutory sexual seduction;
12. Extortionate collection of debt in violation of NRS 205.322;
13. Forgery;
14. Any violation of NRS 199.280 which is punished as a felony;
15. Burglary;
16. Grand larceny;
17. Bribery or asking for or receiving a bribe in violation of chapter 197 or 199 of NRS which is punished as a felony;
18. Battery with intent to commit a crime in violation of NRS 200.400;
19. Assault with a deadly weapon;
20. Any violation of NRS 453.232, 453.316 to 453.3395, inclusive, or 453.375 to 453.401, inclusive;
21. Receiving or transferring a stolen vehicle;
22. Any violation of NRS 202.260, 202.275 or 202.350 which is punished as a felony;
23. Any violation of subsection 2 or 3 of NRS 463.360 or chapter 465 of NRS;
24. Receiving, possessing or withholding stolen goods valued at $250 or more;
25. Embezzlement of money or property valued at $250 or more;
26. Obtaining possession of money or property valued at $250 or more, or obtaining a signature by means of false pretenses;
27. Perjury or subornation of perjury;
28. Offering false evidence;
29. Any violation of NRS 201.300 or 201.360;
30. Any violation of NRS 90.570, 91.230 or 686A.290, or insurance fraud pursuant to NRS 686A.291;
31. Any violation of NRS 205.506, 205.920 or 205.930; ~~[or]~~
32. Any violation of NRS 202.445 or 202.446 ~~[.]~~ ***; or***
33. Any violation of section ~~[2]~~ 3 of this act.

~~[Sec. 4.]~~ ***Sec. 9.*** NRS 207.400 is hereby amended to read as follows:

207.400 1. It is unlawful for a person:

(a) Who has with criminal intent received any proceeds derived, directly or indirectly, from racketeering activity to use or invest, whether directly or indirectly, any part of the proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of:

(1) Any title to or any right, interest or equity in real property; or

(2) Any interest in or the establishment or operation of any enterprise.

(b) Through racketeering activity to acquire or maintain, directly or indirectly, any interest in or control of any enterprise.

(c) Who is employed by or associated with any enterprise to conduct or participate, directly or indirectly, in:

(1) The affairs of the enterprise through racketeering activity; or

(2) Racketeering activity through the affairs of the enterprise.

(d) Intentionally to organize, manage, direct, supervise or finance a criminal syndicate.

(e) Knowingly to incite or induce others to engage in violence or intimidation to promote or further the criminal objectives of the criminal syndicate.

(f) To furnish advice, assistance or direction in the conduct, financing or management of the affairs of the criminal syndicate with the intent to promote or further the criminal objectives of the syndicate.

(g) Intentionally to promote or further the criminal objectives of a criminal syndicate by inducing the commission of an act or the omission of an act by a public officer or employee which violates his official duty.

(h) ***To transport property, to attempt to transport property or to provide property to another person knowing that the other person intends to use the property to further racketeering activity.***

(i) Who knows that property represents proceeds of, or is directly or indirectly derived from, any unlawful activity to conduct or attempt to conduct any transaction involving the property:

(1) With the intent to further racketeering activity; or

(2) With the knowledge that the transaction conceals the location, source, ownership or control of the property.

(j) To conspire to violate any of the provisions of this section.

2. A person who violates this section 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 5 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than $25,000.

3. As used in this section, "unlawful activity" has the meaning ascribed to it in NRS 207.195.

~~[Sec. 5.]~~ ***Sec. 10.*** NRS 171.085 is hereby amended to read as follows:

171.085 Except as otherwise provided in NRS 171.083, 171.084 and 171.095, an indictment for:

1. Theft, robbery, burglary, forgery, arson, sexual assault, a violation of NRS 90.570 **,** ~~[or]~~ a violation punishable pursuant to paragraph (c) of subsection 3 of NRS 598.0999 ***or a violation of section*** ~~*[2]*~~ ***3 of this act*** must be found, or an information or complaint filed, within 4 years after the commission of the offense.

2. Any felony other than murder, theft, robbery, burglary, forgery, arson, sexual assault, a violation of NRS 90.570 or a violation punishable pursuant to paragraph (c) of subsection 3 of NRS 598.0999 must be found, or an

information or complaint filed, within 3 years after the commission of the offense.

Sec. 11. **NRS 598.0963 is hereby amended to read as follows:**

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

2. The Attorney General may institute ***civil or*** criminal proceedings to enforce the provisions of NRS 598.0903 to 598.0999, inclusive. The Attorney General is not required to obtain leave of the court before instituting ***civil or*** criminal proceedings pursuant to this subsection.

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

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

Sec. 12. **NRS 598.098 is hereby amended to read as follows:**

598.098 1. NRS 598.0903 to 598.0999, inclusive, do not prohibit the Commissioner or Director from disclosing to the Attorney General, any district attorney or any law enforcement officer the fact that a crime has been committed by any person, if this fact has become known as a result of any investigation conducted pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive.

2. Subject to the provisions of subsection 2 of NRS 598.0979 and except as otherwise provided in this section, the Commissioner or Director may not make public the name of any person alleged to have committed a deceptive trade practice. This subsection does not:

(a) Prevent the Commissioner or Director from issuing public statements describing or warning of any course of conduct which constitutes a deceptive trade practice.

(b) Apply to a person who is subject to an order issued pursuant to subsection 5 of NRS 598.0971.

3. Upon request, the Commissioner may:

(a) Disclose the number of written complaints received by the Commissioner during the current and immediately preceding 3 fiscal years.

A disclosure made pursuant to this paragraph must include the disposition of the complaint disclosed.

(b) Make public any order to cease and desist issued pursuant to subsection 5 of NRS 598.0971.

➥ This subsection does not authorize the Commissioner to disclose or make public the contents of any complaint described in paragraph (a) or the record of or any other information concerning a hearing conducted in relation to the issuance of an order to cease and desist described in paragraph (b).

4. ***Whenever criminal or civil intelligence, investigative information or any other information held by any state or federal agency is made available to the Attorney General on a confidential or similarly restricted basis, the Attorney General, in the course of an investigation of any violation of this chapter, may obtain and use such intelligence or information. Any such intelligence or information received retains its confidential status under the laws of this State and is exempt from the provisions of NRS 239.010.***

5. The Commissioner may adopt regulations authorizing the disclosure of information concerning any complaint or number of complaints received by the Commissioner or Director relating to a person who has been convicted of violating a provision of NRS 598.0903 to 598.0999, inclusive.

Sec. 13. **NRS 598A.060 is hereby amended to read as follows:**

598A.060 1. Every activity enumerated in this subsection constitutes a contract, combination or conspiracy in restraint of trade, and it is unlawful to conduct any part of any such activity ***affecting commerce*** in this State:

(a) Price fixing, which consists of raising, depressing, fixing, pegging or stabilizing the price of any commodity or service, and which includes, but is not limited to:

(1) Agreements among competitors to depress prices at which they will buy essential raw material for the end product.

(2) Agreements to establish prices for commodities or services.

(3) Agreements to establish uniform discounts, or to eliminate discounts.

(4) Agreements between manufacturers to price a premium commodity a specified amount above inferior commodities.

(5) Agreements not to sell below cost.

(6) Agreements to establish uniform trade-in allowances.

(7) Establishment of uniform cost surveys.

(8) Establishment of minimum markup percentages.

(9) Establishment of single or multiple basing point systems for determining the delivered price of commodities.

(10) Agreements not to advertise prices.

(11) Agreements among competitors to fix uniform list prices as a place to start bargaining.

(12) Bid rigging, including the misuse of bid depositories, foreclosures of competitive activity for a period of time, rotation of jobs among

competitors, submission of identical bids, and submission of complementary bids not intended to secure acceptance by the customer.

(13) Agreements to discontinue a product, or agreements with anyone engaged in the manufacture of competitive lines to limit size, styles or quantities of items comprising the lines.

(14) Agreements to restrict volume of production.

(b) Division of markets, consisting of agreements between competitors to divide territories and to refrain from soliciting or selling in certain areas.

(c) Allocation of customers, consisting of agreements not to sell to specified customers of a competitor.

(d) Tying arrangements, consisting of contracts in which the seller or lessor conditions the sale or lease of commodities or services on the purchase or leasing of another commodity or service.

(e) Monopolization of trade or commerce in this State, including, without limitation, attempting to monopolize or otherwise combining or conspiring to monopolize trade or commerce in this State.

(f) Except as otherwise provided in subsection 2, consolidation, conversion, merger, acquisition of shares of stock or other equity interest, directly or indirectly, of another person engaged in commerce in this State or the acquisition of any assets of another person engaged in commerce in this State that may:

(1) Result in the monopolization of trade or commerce in this State or would further any attempt to monopolize trade or commerce in this State; or

(2) Substantially lessen competition or be in restraint of trade.

2. The provisions of paragraph (f) of subsection 1 do not:

(a) Apply to a person who, solely for an investment purpose, purchases stock or other equity interest or assets of another person if the purchaser does not use his acquisition to bring about or attempt to bring about the substantial lessening of competition in this State.

(b) Prevent a person who is engaged in commerce in this State from forming a subsidiary corporation or other business organization and owning and holding all or part of the stock or equity interest of that corporation or organization.

Sec. 14. **NRS 598A.070 is hereby amended to read as follows:**

598A.070 1. The Attorney General shall:

(a) Enforce the provisions of this chapter.

(b) Investigate suspected violations of the provisions of this chapter.

(c) Institute proceedings on behalf of the State, its agencies, political subdivisions, districts or municipal corporations, or as parens patriae of the persons residing in the State for:

(1) Injunctive relief to prevent and restrain a violation of any provision of this chapter.

(2) Civil penalties for violations of the provisions of this chapter.

(3) Criminal penalties for violations of the provisions of this chapter.

(4) Other equitable relief, including, without limitation, restitution and disgorgement, for violations of the provisions of this chapter.

2. Any district attorney in this State, with the permission or at the direction of the Attorney General, shall institute proceedings in the name of the State of Nevada for any violation of the provisions of this chapter.

Sec. 15. **NRS 598A.080 is hereby amended to read as follows:**

598A.080 The Attorney General may cooperate with and coordinate the enforcement of the provisions of this chapter with officials of the Federal Government and the several states, including ***,*** but not limited to ***,*** the ***following:***

1. The sharing of information and evidence obtained in accordance with NRS 598A.100 ~~[.]~~ ***, if the officials agree in writing to comply with the provisions of NRS 598A.110.***

2. The receipt of information and evidence by the Attorney General from the officials during an investigation of a violation of this chapter. If the information and evidence are provided on a confidential basis, that information and evidence are subject to the provisions of NRS 598A.110.

Sec. 16. **NRS 598A.090 is hereby amended to read as follows:**

598A.090 The district courts have jurisdiction over actions and proceedings for violations of the provisions of this chapter and may:

1. Issue temporary restraining orders and injunctions to prevent and restrain violations of the provisions of this chapter.

2. Impose civil and criminal penalties and award damages as provided in this chapter.

3. Grant mandatory injunctions reasonably necessary to eliminate practices which are unlawful under the provisions of this chapter.

4. Grant other equitable relief, including, without limitation, restitution and disgorgement, for violations of the provisions of this chapter.

Sec. 17. **NRS 598A.110 is hereby amended to read as follows:**

598A.110 ***1.*** Any procedure, testimony taken, document or other tangible evidence produced, or answer made under NRS 598A.100 ~~[shall]~~ ***is confidential and must*** be kept confidential by the Attorney General ***,*** ~~[prior to the institution of an action brought under this chapter for the alleged violation of the provisions of this chapter under investigation,]~~ unless:

~~[1.]~~ ***(a)*** Confidentiality is waived by the person upon whom the written investigative demand is made;

~~[2.]~~ ***(b)*** Disclosure is authorized by the district court; ~~[or~~

~~3. Disclosure]~~

(c) Subject to the provisions of subsection 2, disclosure is made pursuant to NRS 598A.080 ~~[.]~~ ***; or***

(d) Disclosure is made pursuant to an action brought under this chapter or similar federal or state law.

2. Disclosure made pursuant to NRS 598A.080 does not change the confidentiality of the information and evidence.

Sec. 18. **NRS 598A.160 is hereby amended to read as follows:**

598A.160 1. The Attorney General may bring a civil action for any violation of the provisions of this chapter in the name of the State of Nevada and is entitled to recover damages and secure other relief provided by the provisions of this chapter:

(a) As parens patriae of the persons residing in this State, with respect to damages sustained directly or indirectly by such persons, or, alternatively, if the court finds in its discretion that the interests of justice so require, as a representative of a class or classes consisting of persons residing in this State who have been damaged directly or indirectly; ~~[or]~~

(b) As parens patriae, with respect to direct or indirect damages to the general economy of the State of Nevada or any political subdivision thereof ~~[.]~~ ***; or***

(c) On behalf of or as parens patriae, with respect to direct or indirect damages of the State, its agencies, political subdivisions, districts or municipal corporations.

2. In any action under this section, this State:

(a) May recover ***treble*** the aggregate damage sustained by the persons on whose behalf this State sues, without separately proving the individual claims of each such person. Proof of such damages must be based on:

(1) Statistical or sampling methods;

(2) The pro rata allocation of illegal overcharges of sales occurring within the State of Nevada; or

(3) Such other reasonable system of estimating aggregate damages as the court may permit.

(b) Shall distribute, allocate or otherwise pay the amounts so recovered in accordance with state law, or in the absence of any applicable state law, as the district court may authorize, subject to the requirement that any distribution procedure adopted afford each person on whose behalf this State sues a reasonable opportunity individually to secure the pro rata portion of such recovery attributable to his or its respective claims for damages, less litigation and administrative costs, including attorney fees, before any of the recovery is escheated.

Assemblyman Anderson moved that the Assembly do not concur in the Senate Amendment No. 784 to Assembly Bill No. 521.

Remarks by Assemblyman Anderson.

Motion carried.

The following Senate amendment was read:

Amendment No. 1021.

SUMMARY—Revises provisions relating to ~~[the]~~ **various** crimes **.** ~~[of fraud and racketeering.]~~ (BDR 15-500)

AN ACT relating to crimes; providing that it is unlawful for a person to engage in certain fraudulent acts in the course of an enterprise or occupation; ~~[establishing the crime of participating in an organized retail theft ring;]~~ revising provisions relating to the crime of racketeering; **revising provisions relating to crimes against pregnant women;** authorizing the Attorney

General to institute certain civil proceedings to enforce the provisions relating to deceptive trade practices; providing for the sharing of information and intelligence between the Attorney General and a state or federal investigative agency under certain circumstances; authorizing the Attorney General to seek certain equitable relief for violations of law relating to unfair trade practices; revising certain provisions relating to unfair trade practices; **revising provisions relating to the crime of participating in an organized retail theft ring;** providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides additional penalties for certain crimes committed against older persons and vulnerable persons. (NRS 193.167) Section 1 of this bill provides an additional penalty for certain crimes committed against pregnant women.

Existing law provides that if a person drives under the influence of alcohol or a controlled substance and proximately causes the death of, or substantial bodily harm to, a person other than himself, the person is guilty of a category B felony which is punishable by imprisonment for a minimum term of not less than 2 years and a maximum term of not more than 20 years and a fine of not less than $2,000 but not more than $5,000. (NRS 484.3795) Section 11 of this bill provides that a person is guilty of the same offense and subject to the same penalty if the person drives under the influence of alcohol or a controlled substance and proximately causes the termination of the pregnancy of another person.

Existing law establishes various crimes relating to fraud. (Chapter 205 of NRS) Section 3 of this bill, which is patterned in part after existing securities laws, provides that a person commits a category B felony if the person knowingly or intentionally engages in at least two similar transactions within 4 years after the completion of the first transaction by engaging in an act, practice or course of business or employing a device, scheme or artifice to defraud another person by making an untrue statement of fact or not stating a material fact necessary in light of the circumstances which: (1) the person knows to be false; (2) the person intends another to rely on; and (3) which causes a loss to any person who relied on the false statement or omission of material fact. (NRS 90.570) Section 1 of this bill imposes an additional penalty against a person who commits the new crime established by section 3 against a person who is 60 years of age or older or a vulnerable person. (NRS 193.167) Section 8 of this bill revises the definition of a crime related to racketeering to include the new crime established by section 3. Section 10 of this bill provides that a prosecution of the new crime established by section 3 must be commenced within 4 years after the crime is committed.

Existing law establishes various crimes relating to racketeering activity. (NRS 207.400) Section 9 of this bill prohibits a person from transporting property, attempting to transport property or providing property to another person knowing that the other person intends to use the property to further

racketeering activity. In addition, section 9 prohibits a person who knows that property represents proceeds of any unlawful activity to conduct or attempt to conduct any transaction involving the property with the intent to further racketeering activity or with the knowledge that the transaction conceals the location, source, ownership or control of the property. (NRS 207.400)

~~[Section 4 of this bill provides that a person who participates in an organized retail theft ring is guilty of a category B felony, punishable by imprisonment for: (1) a minimum term of not less than 1 year and a maximum term of not more than 10 years, if the aggregated value of the property involved in all thefts committed by the organized retail theft ring during a period of 90 days is at least $2,500 but less than $10,000; or (2) a minimum term of not less than 2 years and a maximum term of not more than 15 years, if the aggregated value of the property involved in all thefts committed by the organized retail theft ring during a period of 90 days is $10,000 or more.]~~

Existing law authorizes the Attorney General to institute criminal proceedings to enforce the provisions of law regarding deceptive trade practices. (NRS 598.0963) Section ~~[11]~~ **13** of this bill provides that the Attorney General may also institute civil proceedings to enforce those provisions.

Existing law authorizes the disclosure to the Attorney General of certain information relating to criminal investigations. (NRS 598.098, 598A.080, 598A.110) Sections ~~[12,]~~ **14,** ~~[15]~~ **17** and ~~[17]~~ **19** of this bill authorize further sharing of information between the Attorney General and state and federal investigative agencies under specified conditions.

Existing law authorizes the Attorney General to institute proceedings against alleged violators of the laws concerning unfair trade practices for civil and criminal penalties. (NRS 598A.070, 598A.090) Sections ~~[14]~~ **16** and ~~[16]~~ **18** of this bill authorize the Attorney General to seek other relief, including, without limitation, restitution and disgorgement.

Existing law authorizes the Attorney General to bring a civil action for any violation of the provisions of law regarding unfair trade practices and to recover the damages sustained by the person on whose behalf the Attorney General brings the action. (NRS 598A.160) Section ~~[18]~~ **20** of this bill allows the Attorney General to recover treble the damages sustained by the person on whose behalf the Attorney General brings the action.

Section 1 of Assembly Bill No. 421 creates the crime of participating in an organized retail theft ring. Section 21 of this bill amends section 1 of Assembly Bill No. 421 to: (1) provide that a person commits the crime of participating in an organized retail theft ring only if the organized retail theft ring has committed three or more thefts in this State during a 90-day period; and (2) eliminate the references to theft of services.

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

Section 1. NRS 193.167 is hereby amended to read as follows:

193.167 1. Except as otherwise provided in NRS 193.169, any person who commits the crime of:

(a) Murder;

(b) Attempted murder;

(c) Assault;

(d) Battery;

(e) Kidnapping;

(f) Robbery;

(g) Sexual assault;

(h) Embezzlement of money or property of a value of $250 or more;

(i) Obtaining money or property of a value of $250 or more by false pretenses; or

(j) Taking money or property from the person of another,

➥ against any person who is 60 years of age or older or against a vulnerable person shall be punished by imprisonment in the county jail or state prison, whichever applies, for a term equal to and in addition to the term of imprisonment prescribed by statute for the crime. The sentence prescribed by this subsection must run consecutively with the sentence prescribed by statute for the crime.

2. Except as otherwise provided in NRS 193.169, any person who commits a criminal violation of the provisions of chapter 90 or 91 of NRS ***or section 3 of this act*** against any person who is 60 years of age or older or against a vulnerable person shall be punished by imprisonment in the county jail or state prison, whichever applies, for a term equal to and in addition to the term of imprisonment prescribed by statute for the criminal violation. The sentence prescribed by this subsection must run consecutively with the sentence prescribed by statute for the criminal violation.

3. ***Except as otherwise provided in NRS 193.169, any person who commits the crime of:***

(a) Murder;

(b) Attempted murder;

(c) Assault;

(d) Battery;

(e) Kidnapping;

(f) Robbery; or

(g) Sexual assault,

➥ against a woman who is pregnant at the time the crime is committed, and who knows or reasonably should know, at the time the crime is committed, that the woman is pregnant, shall be punished by imprisonment in the county jail or state prison, whichever applies, for a term equal to and in addition to the term of imprisonment prescribed by statute for the crime.

The sentence prescribed by this subsection must run consecutively with the sentence prescribed by statute for the crime.

4. This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[4.]~~ ***5.*** As used in this section, "vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.

Sec. 2. Chapter 205 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. ***1. A person shall not, in the course of an enterprise or occupation, knowingly and with the intent to defraud, engage in an act, practice or course of business or employ a device, scheme or artifice which operates or would operate as a fraud or deceit upon a person by means of a false representation or omission of a material fact that:***

(a) The person knows to be false;

(b) The person intends another to rely on; and

(c) Results in a loss to any person who relied on the false representation or omission,

➥ in at least two transactions that have the same or similar pattern, intents, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated incidents within 4 years and in which the aggregate loss or intended loss is more than $250.

2. Each act which violates subsection 1 constitutes a separate offense.

3. A person who violates 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 and a maximum term of not more than 20 years, and may be further punished by a fine of not more than $10,000.

4. In addition to any other penalty, the court shall order a person who violates subsection 1 to pay restitution.

5. As used in this section, "enterprise" has the meaning ascribed to it in NRS 207.380.

Sec. 4. ~~*[1. A person who participates in an organized retail theft ring that has committed three or more thefts of retail merchandise in this State during a period of 90 days is guilty of a category B felony and shall be punished by imprisonment in the state prison for:*~~

~~*(a) If the aggregated value of the property involved in all thefts committed by the organized retail theft ring in this State during that 90-day period is at least $2,500 but less than $10,000, a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than $10,000.*~~

~~*(b) If the aggregated value of the property involved in all thefts committed during that 90-day period is $10,000 or more, a minimum term of not less than 2 years and a maximum term of not more than 15 years, and by a fine of not more than $20,000.*~~

~~*2. In addition to any other penalty, the court shall order a person who violates this section to pay restitution.*~~

~~*3. For the purposes of this section, in determining the aggregated value of the property involved in all thefts committed by an organized retail theft ring in this State during a period of 90 days:*~~

~~*(a) The amount involved in a single theft shall be deemed to be the highest value, by any reasonable standard, of the property which is obtained; and*~~

~~*(b) The amounts involved in all thefts committed by all participants in the organized retail theft ring must be aggregated.*~~

~~*4. In any prosecution for a violation of this section, the violation shall be deemed to have been committed and may be prosecuted in any jurisdiction in this State in which any theft committed by any participant in an organized retail theft ring was committed, regardless of whether the defendant was ever physically present in that jurisdiction.*~~

~~*5. As used in this section:*~~

~~*(a) "Merchant" has the meaning ascribed to it in NRS 597.850.*~~

~~*(b) "Organized retail theft ring" means three or more persons who associate for the purpose of engaging, and one or more of whom engage, in the conduct of committing a series of thefts of retail merchandise against more than one merchant in this State or against one merchant but at more than one location of a retail business of the merchant in this State.]*~~ **(Deleted by amendment.)**

Sec. 5. ~~[NRS 205.0821 is hereby amended to read as follows:~~

~~205.0821 As used in NRS 205.0821 to 205.0835, inclusive, *and section 4 of this act*, unless the context otherwise requires, the words and terms defined in NRS 205.0822 to 205.0831, inclusive, have the meanings ascribed to them in those sections.]~~ **(Deleted by amendment.)**

Sec. 6. ~~[NRS 205.0833 is hereby amended to read as follows:~~

~~205.0833 1. Conduct denominated theft in NRS 205.0821 to 205.0835, inclusive, *and section 4 of this act* constitutes a single offense embracing the separate offenses commonly known as larceny, receiving or possessing stolen property, embezzlement, obtaining property by false pretenses, issuing a check without sufficient money or credit, and other similar offenses.~~

~~2. A criminal charge of theft may be supported by evidence that an act was committed in any manner that constitutes theft pursuant to NRS 205.0821 to 205.0835, inclusive, *and section 4 of this act* notwithstanding the specification of a different manner in the indictment or information, subject to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief if it determines that, in a specific case, strict application of the provisions of this subsection would result in prejudice to the defense by lack of fair notice or by surprise.]~~ **(Deleted by amendment.)**

Sec. 7. ~~[NRS 205.0835 is hereby amended to read as follows:~~

~~205.0835 1. Unless a greater penalty is imposed by a specific statute [,] *and unless the provisions of section 4 of this act apply under the circumstances*, a person who commits theft in violation of any provision of~~

~~NRS 205.0821 to 205.0835, inclusive, *and section 4 of this act* shall be punished pursuant to the provisions of this section.~~

~~2. If the value of the property or services involved in the theft is less than $250, the person who committed the theft is guilty of a misdemeanor.~~

~~3. If the value of the property or services involved in the theft is $250 or more but less than $2,500, the person who committed the theft is guilty of a category C felony and shall be punished as provided in NRS 193.130.~~

~~4. If the value of the property or services involved in the theft is $2,500 or more, the person who committed the theft is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than $10,000.~~

~~5. In addition to any other penalty, the court shall order the person who committed the theft to pay restitution.~~] **(Deleted by amendment.)**

Sec. 8. NRS 207.360 is hereby amended to read as follows:

207.360 "Crime related to racketeering" means the commission of, attempt to commit or conspiracy to commit any of the following crimes:

1. Murder;
2. Manslaughter, except vehicular manslaughter as described in NRS 484.3775;
3. Mayhem;
4. Battery which is punished as a felony;
5. Kidnapping;
6. Sexual assault;
7. Arson;
8. Robbery;
9. Taking property from another under circumstances not amounting to robbery;
10. Extortion;
11. Statutory sexual seduction;
12. Extortionate collection of debt in violation of NRS 205.322;
13. Forgery;
14. Any violation of NRS 199.280 which is punished as a felony;
15. Burglary;
16. Grand larceny;
17. Bribery or asking for or receiving a bribe in violation of chapter 197 or 199 of NRS which is punished as a felony;
18. Battery with intent to commit a crime in violation of NRS 200.400;
19. Assault with a deadly weapon;
20. Any violation of NRS 453.232, 453.316 to 453.3395, inclusive, or 453.375 to 453.401, inclusive;
21. Receiving or transferring a stolen vehicle;
22. Any violation of NRS 202.260, 202.275 or 202.350 which is punished as a felony;

23. Any violation of subsection 2 or 3 of NRS 463.360 or chapter 465 of NRS;

24. Receiving, possessing or withholding stolen goods valued at $250 or more;

25. Embezzlement of money or property valued at $250 or more;

26. Obtaining possession of money or property valued at $250 or more, or obtaining a signature by means of false pretenses;

27. Perjury or subornation of perjury;

28. Offering false evidence;

29. Any violation of NRS 201.300 or 201.360;

30. Any violation of NRS 90.570, 91.230 or 686A.290, or insurance fraud pursuant to NRS 686A.291;

31. Any violation of NRS 205.506, 205.920 or 205.930; ~~[or]~~

32. Any violation of NRS 202.445 or 202.446 ~~[.]~~ ***; or***

33. Any violation of section 3 of this act.

Sec. 9. NRS 207.400 is hereby amended to read as follows:

207.400 1. It is unlawful for a person:

(a) Who has with criminal intent received any proceeds derived, directly or indirectly, from racketeering activity to use or invest, whether directly or indirectly, any part of the proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of:

(1) Any title to or any right, interest or equity in real property; or

(2) Any interest in or the establishment or operation of any enterprise.

(b) Through racketeering activity to acquire or maintain, directly or indirectly, any interest in or control of any enterprise.

(c) Who is employed by or associated with any enterprise to conduct or participate, directly or indirectly, in:

(1) The affairs of the enterprise through racketeering activity; or

(2) Racketeering activity through the affairs of the enterprise.

(d) Intentionally to organize, manage, direct, supervise or finance a criminal syndicate.

(e) Knowingly to incite or induce others to engage in violence or intimidation to promote or further the criminal objectives of the criminal syndicate.

(f) To furnish advice, assistance or direction in the conduct, financing or management of the affairs of the criminal syndicate with the intent to promote or further the criminal objectives of the syndicate.

(g) Intentionally to promote or further the criminal objectives of a criminal syndicate by inducing the commission of an act or the omission of an act by a public officer or employee which violates his official duty.

(h) ***To transport property, to attempt to transport property or to provide property to another person knowing that the other person intends to use the property to further racketeering activity.***

(i) Who knows that property represents proceeds of, or is directly or indirectly derived from, any unlawful activity to conduct or attempt to conduct any transaction involving the property:

(1) With the intent to further racketeering activity; or

(2) With the knowledge that the transaction conceals the location, source, ownership or control of the property.

(j) To conspire to violate any of the provisions of this section.

2. A person who violates this section 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 5 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than $25,000.

3. As used in this section, "unlawful activity" has the meaning ascribed to it in NRS 207.195.

Sec. 10. NRS 171.085 is hereby amended to read as follows:

171.085 Except as otherwise provided in NRS 171.083, 171.084 and 171.095, an indictment for:

1. Theft, robbery, burglary, forgery, arson, sexual assault, a violation of NRS 90.570 ***,*** ~~[or]~~ a violation punishable pursuant to paragraph (c) of subsection 3 of NRS 598.0999 ***or a violation of section 3 of this act*** must be found, or an information or complaint filed, within 4 years after the commission of the offense.

2. Any felony other than murder, theft, robbery, burglary, forgery, arson, sexual assault, a violation of NRS 90.570 or a violation punishable pursuant to paragraph (c) of subsection 3 of NRS 598.0999 must be found, or an information or complaint filed, within 3 years after the commission of the offense.

Sec. 11. **NRS 484.3795 is hereby amended to read as follows:**

484.3795 1. Unless a greater penalty is provided pursuant to NRS 484.37955, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379,

➥ and does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle on or off the highways of this State, if the act or neglect of duty proximately causes the death of, or substantial

bodily harm to, ~~[a]~~ ***another*** person ~~[other than himself,]~~ ***, or proximately causes the termination of the pregnancy of another 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 must be further punished by a fine of not less than $2,000 nor more than $5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 may not be suspended nor may probation be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

Sec. 12. **NRS 484.3795 is hereby amended to read as follows:**

484.3795 1. Unless a greater penalty is provided pursuant to NRS 484.37955, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379,

➥ and does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle on or off the highways of this State, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, ~~[a]~~ ***another*** person ~~[other than himself,]~~ ***, or proximately causes the termination of the pregnancy of another 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 must be further punished by a fine of not less than $2,000 nor more than $5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 may not be suspended nor may probation be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

~~[Sec. 11.]~~ ***Sec. 13.*** NRS 598.0963 is hereby amended to read as follows:

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

2. The Attorney General may institute ***civil or*** criminal proceedings to enforce the provisions of NRS 598.0903 to 598.0999, inclusive. The Attorney General is not required to obtain leave of the court before instituting ***civil or*** criminal proceedings pursuant to this subsection.

3. If the Attorney General has reason to believe that a person has engaged or is engaging in a deceptive trade practice, the Attorney General

may bring an action in the name of the State of Nevada against that person to obtain a temporary restraining order, a preliminary or permanent injunction, or other appropriate relief.

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

~~[Sec. 12.]~~ ***Sec. 14.*** NRS 598.098 is hereby amended to read as follows:

598.098 1. NRS 598.0903 to 598.0999, inclusive, do not prohibit the Commissioner or Director from disclosing to the Attorney General, any district attorney or any law enforcement officer the fact that a crime has been committed by any person, if this fact has become known as a result of any investigation conducted pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive.

2. Subject to the provisions of subsection 2 of NRS 598.0979 and except as otherwise provided in this section, the Commissioner or Director may not make public the name of any person alleged to have committed a deceptive trade practice. This subsection does not:

(a) Prevent the Commissioner or Director from issuing public statements describing or warning of any course of conduct which constitutes a deceptive trade practice.

(b) Apply to a person who is subject to an order issued pursuant to subsection 5 of NRS 598.0971.

3. Upon request, the Commissioner may:

(a) Disclose the number of written complaints received by the Commissioner during the current and immediately preceding 3 fiscal years. A disclosure made pursuant to this paragraph must include the disposition of the complaint disclosed.

(b) Make public any order to cease and desist issued pursuant to subsection 5 of NRS 598.0971.

➥ This subsection does not authorize the Commissioner to disclose or make public the contents of any complaint described in paragraph (a) or the record of or any other information concerning a hearing conducted in relation to the issuance of an order to cease and desist described in paragraph (b).

4. ***Whenever criminal or civil intelligence, investigative information or any other information held by any state or federal agency is made available to the Attorney General on a confidential or similarly restricted basis, the Attorney General, in the course of an investigation of any violation of this chapter, may obtain and use such intelligence or information. Any such***

intelligence or information received retains its confidential status under the laws of this State and is exempt from the provisions of NRS 239.010.

5. The Commissioner may adopt regulations authorizing the disclosure of information concerning any complaint or number of complaints received by the Commissioner or Director relating to a person who has been convicted of violating a provision of NRS 598.0903 to 598.0999, inclusive.

~~[Sec. 13.]~~ ***Sec. 15.*** NRS 598A.060 is hereby amended to read as follows:

598A.060 1. Every activity enumerated in this subsection constitutes a contract, combination or conspiracy in restraint of trade, and it is unlawful to conduct any part of any such activity ***affecting commerce*** in this State:

(a) Price fixing, which consists of raising, depressing, fixing, pegging or stabilizing the price of any commodity or service, and which includes, but is not limited to:

(1) Agreements among competitors to depress prices at which they will buy essential raw material for the end product.

(2) Agreements to establish prices for commodities or services.

(3) Agreements to establish uniform discounts, or to eliminate discounts.

(4) Agreements between manufacturers to price a premium commodity a specified amount above inferior commodities.

(5) Agreements not to sell below cost.

(6) Agreements to establish uniform trade-in allowances.

(7) Establishment of uniform cost surveys.

(8) Establishment of minimum markup percentages.

(9) Establishment of single or multiple basing point systems for determining the delivered price of commodities.

(10) Agreements not to advertise prices.

(11) Agreements among competitors to fix uniform list prices as a place to start bargaining.

(12) Bid rigging, including the misuse of bid depositories, foreclosures of competitive activity for a period of time, rotation of jobs among competitors, submission of identical bids, and submission of complementary bids not intended to secure acceptance by the customer.

(13) Agreements to discontinue a product, or agreements with anyone engaged in the manufacture of competitive lines to limit size, styles or quantities of items comprising the lines.

(14) Agreements to restrict volume of production.

(b) Division of markets, consisting of agreements between competitors to divide territories and to refrain from soliciting or selling in certain areas.

(c) Allocation of customers, consisting of agreements not to sell to specified customers of a competitor.

(d) Tying arrangements, consisting of contracts in which the seller or lessor conditions the sale or lease of commodities or services on the purchase or leasing of another commodity or service.

(e) Monopolization of trade or commerce in this State, including, without limitation, attempting to monopolize or otherwise combining or conspiring to monopolize trade or commerce in this State.

(f) Except as otherwise provided in subsection 2, consolidation, conversion, merger, acquisition of shares of stock or other equity interest, directly or indirectly, of another person engaged in commerce in this State or the acquisition of any assets of another person engaged in commerce in this State that may:

(1) Result in the monopolization of trade or commerce in this State or would further any attempt to monopolize trade or commerce in this State; or

(2) Substantially lessen competition or be in restraint of trade.

2. The provisions of paragraph (f) of subsection 1 do not:

(a) Apply to a person who, solely for an investment purpose, purchases stock or other equity interest or assets of another person if the purchaser does not use his acquisition to bring about or attempt to bring about the substantial lessening of competition in this State.

(b) Prevent a person who is engaged in commerce in this State from forming a subsidiary corporation or other business organization and owning and holding all or part of the stock or equity interest of that corporation or organization.

~~[Sec. 14.]~~ ***Sec. 16.*** NRS 598A.070 is hereby amended to read as follows:

598A.070 1. The Attorney General shall:

(a) Enforce the provisions of this chapter.

(b) Investigate suspected violations of the provisions of this chapter.

(c) Institute proceedings on behalf of the State, its agencies, political subdivisions, districts or municipal corporations, or as parens patriae of the persons residing in the State for:

(1) Injunctive relief to prevent and restrain a violation of any provision of this chapter.

(2) Civil penalties for violations of the provisions of this chapter.

(3) Criminal penalties for violations of the provisions of this chapter.

(4) Other equitable relief, including, without limitation, restitution and disgorgement, for violations of the provisions of this chapter.

2. Any district attorney in this State, with the permission or at the direction of the Attorney General, shall institute proceedings in the name of the State of Nevada for any violation of the provisions of this chapter.

~~[Sec. 15.]~~ ***Sec. 17.*** NRS 598A.080 is hereby amended to read as follows:

598A.080 The Attorney General may cooperate with and coordinate the enforcement of the provisions of this chapter with officials of the Federal Government and the several states, including **,** but not limited to **,** the ***following:***

1. ***The*** sharing of information and evidence obtained in accordance with NRS 598A.100 ~~[.]~~ ***, if the officials agree in writing to comply with the provisions of NRS 598A.110.***

2. The receipt of information and evidence by the Attorney General from the officials during an investigation of a violation of this chapter. If the information and evidence are provided on a confidential basis, that information and evidence are subject to the provisions of NRS 598A.110.

~~[Sec. 16.]~~ ***Sec. 18.*** NRS 598A.090 is hereby amended to read as follows:

598A.090 The district courts have jurisdiction over actions and proceedings for violations of the provisions of this chapter and may:

1. Issue temporary restraining orders and injunctions to prevent and restrain violations of the provisions of this chapter.

2. Impose civil and criminal penalties and award damages as provided in this chapter.

3. Grant mandatory injunctions reasonably necessary to eliminate practices which are unlawful under the provisions of this chapter.

4. Grant other equitable relief, including, without limitation, restitution and disgorgement, for violations of the provisions of this chapter.

~~[Sec. 17.]~~ ***Sec. 19.*** NRS 598A.110 is hereby amended to read as follows:

598A.110 ***1.*** Any procedure, testimony taken, document or other tangible evidence produced, or answer made under NRS 598A.100 ~~[shall]~~ ***is confidential and must*** be kept confidential by the Attorney General ***,*** ~~[prior to the institution of an action brought under this chapter for the alleged violation of the provisions of this chapter under investigation,]~~ unless:

~~[1.]~~ ***(a)*** Confidentiality is waived by the person upon whom the written investigative demand is made;

~~[2.]~~ ***(b)*** Disclosure is authorized by the district court; ~~[or~~

~~3. Disclosure]~~

(c) Subject to the provisions of subsection 2, disclosure is made pursuant to NRS 598A.080 ~~[.]~~ ***; or***

(d) Disclosure is made pursuant to an action brought under this chapter or similar federal or state law.

2. Disclosure made pursuant to NRS 598A.080 does not change the confidentiality of the information and evidence.

~~[Sec. 18.]~~ ***Sec. 20.*** NRS 598A.160 is hereby amended to read as follows:

598A.160 1. The Attorney General may bring a civil action for any violation of the provisions of this chapter in the name of the State of Nevada and is entitled to recover damages and secure other relief provided by the provisions of this chapter:

(a) As parens patriae of the persons residing in this State, with respect to damages sustained directly or indirectly by such persons, or, alternatively, if the court finds in its discretion that the interests of justice so require, as a

representative of a class or classes consisting of persons residing in this State who have been damaged directly or indirectly; ~~[or]~~

(b) As parens patriae, with respect to direct or indirect damages to the general economy of the State of Nevada or any political subdivision thereof ~~[.]~~ ***; or***

(c) On behalf of or as parens patriae, with respect to direct or indirect damages of the State, its agencies, political subdivisions, districts or municipal corporations.

2. In any action under this section, this State:

(a) May recover ***treble*** the aggregate damage sustained by the persons on whose behalf this State sues, without separately proving the individual claims of each such person. Proof of such damages must be based on:

(1) Statistical or sampling methods;

(2) The pro rata allocation of illegal overcharges of sales occurring within the State of Nevada; or

(3) Such other reasonable system of estimating aggregate damages as the court may permit.

(b) Shall distribute, allocate or otherwise pay the amounts so recovered in accordance with state law, or in the absence of any applicable state law, as the district court may authorize, subject to the requirement that any distribution procedure adopted afford each person on whose behalf this State sues a reasonable opportunity individually to secure the pro rata portion of such recovery attributable to his or its respective claims for damages, less litigation and administrative costs, including attorney fees, before any of the recovery is escheated.

Sec. 21. **Section 1 of Assembly Bill No. 421 of this session is hereby amended to read as follows:**

Section 1***.*** 1. A person who participates in an organized retail theft ring ***that has committed three or more thefts of retail merchandise in this State during a period of 90 days*** is guilty of a category B felony and shall be punished by imprisonment in the state prison for:

(a) If the aggregated value of the property ~~[or services]~~ involved in all thefts committed by the organized retail theft ring in this State during ~~[a period of 90 days]~~ ***that 90-day period*** is at least $2,500 but less than $10,000, a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than $10,000.

(b) If the aggregated value of the property ~~[or services]~~ involved in all thefts committed by the organized retail theft ring in this State during ~~[a period of 90 days]~~ ***that 90-day period*** is $10,000 or more, a minimum term of not less than 2 years and a maximum term of not more than 15 years, and by a fine of not more than $20,000.

2. In addition to any other penalty, the court shall order a person who violates this section to pay restitution.

3. For the purposes of this section, in determining the aggregated value of the property ~~[or services]~~ involved in all thefts committed by an organized retail theft ring in this State during a period of 90 days:

(a) The amount involved in a single theft shall be deemed to be the highest value, by any reasonable standard, of the property ~~[or services which are]~~ ***which is*** obtained; and

(b) The amounts involved in all thefts committed by all participants in the organized retail theft ring must be aggregated.

4. In any prosecution for a violation of this section, the violation shall be deemed to have been committed and may be prosecuted in any jurisdiction in this State in which any theft committed by any participant in an organized retail theft ring was committed, regardless of whether the defendant was ever physically present in that jurisdiction.

5. As used in this section:

(a) "Merchant" has the meaning ascribed to it in NRS 597.850.

(b) "Organized retail theft ring" means three or more persons who associate for the purpose of engaging ***, and one or more of whom engage,*** in the conduct of committing a series of thefts of retail merchandise against more than one merchant in this State or against one merchant but at more than one location of a retail business of the merchant in this State.

Sec. 22. **1. This section, sections 1 to 11, inclusive, and 13 to 20, inclusive, of this act become effective on October 1, 2007.**

2. Section 11 of this act expires 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.

3. Section 12 of this act becomes 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.

4. Section 21 of this act becomes effective on October 1, 2007, only if Assembly Bill No. 421 of this session becomes effective.

Assemblyman Anderson moved that the Assembly do not concur in the Senate Amendment No. 1021 to Assembly Bill No. 521.

Remarks by Assemblyman Anderson.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 498.

The following Senate amendment was read:

Amendment No. 752.

AN ACT relating to parentage; creating a conclusive presumption of paternity in certain circumstances; expanding the persons authorized to

perform certain tests to determine paternity; **clarifying that the results of such tests and any sample or specimen taken may be used only for certain purposes;** revising certain provisions concerning voluntary acknowledgments of paternity; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides that if the results of a blood test or genetic test establish a probability of the alleged father's paternity of 99 percent or more, the results of such a test create a conclusive presumption of paternity except in certain limited circumstances. (NRS 126.051)

Sections 4 and 12 of this bill amend existing law to provide that a person designated by the Division of Welfare and Supportive Services of the Department of Health and Human Services, the district attorney or the Attorney General is authorized to perform certain tests for the typing of blood or the taking of specimens for genetic identification in paternity cases. (NRS 126.121, 652.210) **Section 4 also clarifies that the results of such tests and any sample or specimen taken may be used only for the purposes specified in chapter 126 of NRS.**

Sections 2 and 7-11 of this bill amend existing law to provide that the mother and father of a child may sign a declaration under penalty of perjury, rather than an affidavit which requires the signature of a notary public, for the voluntary acknowledgment of paternity of a child. (NRS 126.053, 440.280, 440.283, 440.287, 440.325, 449.246)

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

Section 1. NRS 126.051 is hereby amended to read as follows:

126.051 1. A man is presumed to be the natural father of a child if:

(a) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within 285 days after the marriage is terminated by death, annulment, declaration of invalidity or divorce, or after a decree of separation is entered by a court.

(b) He and the child's natural mother were cohabiting for at least 6 months before the period of conception and continued to cohabit through the period of conception.

(c) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is invalid or could be declared invalid, and:

(1) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 285 days after its termination by death, annulment, declaration of invalidity or divorce; or

(2) If the attempted marriage is invalid without a court order, the child is born within 285 days after the termination of cohabitation.

(d) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his natural child.

~~[(c) Blood]~~

2. A conclusive presumption that a man is the natural father of a child is established if tests ***for the typing of blood*** or tests for genetic identification made pursuant to NRS 126.121 show a probability of 99 percent or more that he is the father ~~[.]~~ ***except that the presumption may be rebutted if he establishes that he has an identical sibling who may be the father.***

~~[2.]~~ ***3.*** A presumption under ~~[this section]~~ ***subsection 1*** may be rebutted in an appropriate action only by clear and convincing evidence. If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man.

Sec. 2. NRS 126.053 is hereby amended to read as follows:

126.053 1. After the expiration of the period described in subsection 2, ~~[an affidavit]~~ ***a declaration*** for the voluntary acknowledgment of paternity developed by the State Board of Health pursuant to NRS 440.283 shall be deemed to have the same effect as a judgment or order of a court determining the existence of the relationship of parent and child if the ~~[affidavit]~~ ***declaration*** is signed in this or any other state by the mother and father of the child. ~~[An affidavit]~~ ***A declaration*** for the voluntary acknowledgment of paternity that is signed pursuant to this subsection is not required to be ratified by a court of this State before the ~~[affidavit]~~ ***declaration*** is deemed to have the same effect as a judgment or order of a court determining the existence of the relationship of parent and child.

2. A person who signs an acknowledgment of paternity in this State may rescind the acknowledgment:

(a) Within 60 days after the acknowledgment is signed by both persons; or

(b) Before the date on which an administrative or judicial proceeding relating to the child begins if that person is a party to the proceeding,

➥ whichever occurs earlier.

3. After the expiration of the period during which an acknowledgment may be rescinded pursuant to subsection 2, the acknowledgment may not be challenged except upon the grounds of fraud, duress or material mistake of fact. The burden of proof is on the person challenging the acknowledgment to establish that the acknowledgment was signed because of fraud, duress or material mistake of fact.

4. Except upon a showing of good cause, a person's obligation for the support of a child must not be suspended during a hearing to challenge a voluntary acknowledgment of paternity.

Sec. 3. NRS 126.101 is hereby amended to read as follows:

126.101 1. The child must be made a party to the action. If he is a minor, he must be represented by his general guardian or a guardian ad litem appointed by the court. The child's mother or father may not represent the

child as guardian or otherwise. If a district attorney brings an action pursuant to NRS 125B.150 and the interests of the child:

(a) Are adequately represented by the appointment of the district attorney as his guardian ad litem, the district attorney shall act as guardian ad litem for the child without the need for court appointment.

(b) Are not adequately represented by the appointment of the district attorney as his guardian ad litem, the Division of Welfare and Supportive Services of the Department of Health and Human Services must be appointed as guardian ad litem in the case.

2. The natural mother and a man presumed to be the father under NRS 126.051 must be made parties, but if more than one man is presumed to be the natural father, only a man presumed pursuant to subsection 2 ***or 3*** of NRS 126.051 is an indispensable party. Any other presumed or alleged father may be made a party.

3. The court may align the parties.

Sec. 4. NRS 126.121 is hereby amended to read as follows:

126.121 1. The court may, and shall upon the motion of a party, order the mother, child, alleged father or any other person so involved to submit to one or more tests for the typing of blood or taking of specimens for genetic identification to be made by ***a designated person*** , ~~*[designated by an enforcing authority,]*~~ ***by*** qualified physicians or ***by*** other qualified persons, under such restrictions and directions as the court or judge deems proper. Whenever such a test is ordered and made, the results of the test must be received in evidence and must be made available to a judge, master or referee conducting a hearing pursuant to NRS 126.111. ***The results of the test and any sample or specimen taken may be used only for the purposes specified in this chapter.*** Unless a party files a written objection to the result of a test at least 30 days before the hearing at which the result is to be received in evidence, the result is admissible as evidence of paternity without foundational testimony or other proof of authenticity or accuracy. The order for such a test also may direct that the testimony of the experts and of the persons so examined may be taken by deposition or written interrogatories.

2. If any party refuses to submit to or fails to appear for a test ordered pursuant to subsection 1, the court may presume that the result of the test would be adverse to the interests of that party or may enforce its order if the rights of others and the interests of justice so require.

3. The court, upon reasonable request by a party, shall order that independent tests for determining paternity be performed by other experts or qualified laboratories.

4. In all cases, the court shall determine the number and qualifications of the experts and laboratories.

5. As used in this section ~~*[, "enforcing]*~~ ***:***

(a) "Designated person" means a person who is:

(1) Properly trained to take samples or specimens for tests for the typing of blood and genetic identification; and

(2) Designated by an enforcing authority to take such samples or specimens.

(b) "Enforcing authority" means the Division of Welfare and Supportive Services of the Department of Health and Human Services, its designated representative, a district attorney or the Attorney General when acting pursuant to NRS 425.380.

Sec. 5. NRS 128.150 is hereby amended to read as follows:

128.150 1. If a mother relinquishes or proposes to relinquish for adoption a child who has:

(a) A presumed father ~~[under subsection 1 of]~~ ***pursuant to*** NRS 126.051;

(b) A father whose relationship to the child has been determined by a court; or

(c) A father as to whom the child is a legitimate child under chapter 126 of NRS, under prior law of this State or under the law of another jurisdiction,

➥ and the father has not consented to the adoption of the child or relinquished the child for adoption, a proceeding must be brought pursuant to this chapter and a determination made of whether a parent and child relationship exists and if so, if it should be terminated.

2. If a mother relinquishes or proposes to relinquish for adoption a child who does not have:

(a) A presumed father ~~[under subsection 1 of]~~ ***pursuant to*** NRS 126.051;

(b) A father whose relationship to the child has been determined by a court;

(c) A father as to whom the child is a legitimate child under chapter 126 of NRS, under prior law of this State or under the law of another jurisdiction; or

(d) A father who can be identified in any other way,

➥ or if a child otherwise becomes the subject of an adoption proceeding, the agency or person to whom the child has been or is to be relinquished, or the mother or the person having custody of the child, shall file a petition in the district court to terminate the parental rights of the father, unless the father's relationship to the child has been previously terminated or determined not to exist by a court.

3. In an effort to identify and protect the interests of the natural father, the court which is conducting a proceeding pursuant to this chapter shall cause inquiry to be made of the mother and any other appropriate person. The inquiry must include the following:

(a) Whether the mother was married at the time of conception of the child or at any time thereafter.

(b) Whether the mother was cohabiting with a man at the time of conception or birth of the child.

(c) Whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy.

(d) Whether any man has formally or informally acknowledged or declared his possible paternity of the child.

4. If, after the inquiry, the natural father is identified to the satisfaction of the court, or if more than one man is identified as a possible father, each must be given notice of the proceeding in accordance with subsection 6 of this section or with this chapter, as applicable. If any of them fails to appear or, if appearing, fails to claim custodial rights, such failure constitutes abandonment of the child. If the natural father or a man representing himself to be the natural father, claims custodial rights, the court shall proceed to determine custodial rights.

5. If, after the inquiry, the court is unable to identify the natural father or any possible natural father and no person has appeared claiming to be the natural father and claiming custodial rights, the court shall enter an order terminating the unknown natural father's parental rights with reference to the child. Subject to the disposition of any appeal, upon the expiration of 6 months after an order terminating parental rights is issued under this subsection, or this chapter, the order cannot be questioned by any person in any manner or upon any ground, including fraud, misrepresentation, failure to give any required notice or lack of jurisdiction of the parties or of the subject matter.

6. Notice of the proceeding must be given to every person identified as the natural father or a possible natural father in the manner provided by law and the Nevada Rules of Civil Procedure for the service of process in a civil action, or in any manner the court directs. Proof of giving the notice must be filed with the court before the petition is heard.

Sec. 6. NRS 425.345 is hereby amended to read as follows:

425.345 To the extent they are not inconsistent with the provisions of this chapter, the provisions of chapters 31A, 125B and 126 of NRS apply to ~~[a hearing held]~~ ***any action taken*** pursuant to the provisions of this chapter.

Sec. 7. NRS 440.280 is hereby amended to read as follows:

440.280 1. If a birth occurs in a hospital or the mother and child are immediately transported to a hospital, the person in charge of the hospital or his designated representative shall obtain the necessary information, prepare a birth certificate, secure the signatures required by the certificate and file it within 10 days with the health officer of the registration district where the birth occurred. The physician in attendance shall provide the medical information required by the certificate and certify to the fact of birth within 72 hours after the birth. If the physician does not certify to the fact of birth within the required 72 hours, the person in charge of the hospital or his designated representative shall complete and sign the certification.

2. If a birth occurs outside a hospital and the mother and child are not immediately transported to a hospital, the birth certificate must be prepared and filed by one of the following persons in the following order of priority:

(a) The physician in attendance at or immediately after the birth.

(b) Any other person in attendance at or immediately after the birth.

(c) The father, mother or, if the father is absent and the mother is incapacitated, the person in charge of the premises where the birth occurred.

3. If a birth occurs in a moving conveyance, the place of birth is the place where the child is removed from the conveyance.

4. In cities, the certificate of birth must be filed sooner than 10 days after the birth if so required by municipal ordinance or regulation.

5. If the mother was:

(a) Married at the time of birth, the name of her husband must be entered on the certificate as the father of the child unless:

(1) A court has issued an order establishing that a person other than the mother's husband is the father of the child; or

(2) The mother and a person other than the mother's husband have signed ~~[an affidavit]~~ ***a declaration*** for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283.

(b) Widowed at the time of birth but married at the time of conception, the name of her husband at the time of conception must be entered on the certificate as the father of the child unless:

(1) A court has issued an order establishing that a person other than the mother's husband at the time of conception is the father of the child; or

(2) The mother and a person other than the mother's husband at the time of conception have signed ~~[an affidavit]~~ ***a declaration*** for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283.

6. If the mother was unmarried at the time of birth, the name of the father may be entered on the original certificate of birth only if:

(a) The provisions of paragraph (b) of subsection 5 are applicable;

(b) A court has issued an order establishing that the person is the father of the child; or

(c) The mother and father of the child have signed ~~[an affidavit]~~ ***a declaration*** for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283. If both the father and mother execute ~~[an affidavit]~~ ***a declaration*** consenting to the use of the surname of the father as the surname of the child, the name of the father must be entered on the original certificate of birth and the surname of the father must be entered thereon as the surname of the child.

7. An order entered or ~~[an affidavit]~~ ***a declaration*** executed pursuant to subsection 6 must be submitted to the local health officer, his authorized representative, or the attending physician or midwife before a proper certificate of birth is forwarded to the State Registrar. The order or ~~[affidavit]~~ ***declaration*** must then be delivered to the State Registrar for filing. The State Registrar's file of orders and ~~[affidavits]~~ ***declarations*** must be sealed and the contents of the file may be examined only upon order of a court of competent jurisdiction or at the request of the father or mother or the Division of Welfare and Supportive Services of the Department of Health and Human Services as necessary to carry out the provisions of 42 U.S.C. § 654a. The local health officer shall complete the original certificate of birth in accordance with subsection 6 and other provisions of this chapter.

8. As used in this section, "court" has the meaning ascribed to it in NRS 125B.004.

Sec. 8. NRS 440.283 is hereby amended to read as follows:

440.283 1. The Board shall:

(a) Develop ~~[an affidavit]~~ ***a declaration to be signed under penalty of perjury*** for the voluntary acknowledgment of paternity in this State that complies with the requirements prescribed by the Secretary of Health and Human Services pursuant to 42 U.S.C. § 652(a); and

(b) Distribute the ~~[affidavits]~~ ***declarations*** to:

(1) Each hospital or obstetric center in this State; and

(2) Any other entity authorized to provide services relating to the voluntary acknowledgment of paternity pursuant to the regulations adopted by the Secretary of Health and Human Services pursuant to 42 U.S.C. § 666(a)(5)(C).

2. Subject to the provisions of subsection 3, the State Registrar of Vital Statistics and the entities described in paragraph (b) of subsection 1 shall offer to provide services relating to the voluntary acknowledgment of paternity in the manner prescribed in the regulations adopted by the Secretary of Health and Human Services pursuant to 42 U.S.C. § 666(a)(5)(C).

3. Before providing ~~[an affidavit]~~ ***a declaration*** for the acknowledgment of paternity to the mother of a child or a person who wishes to acknowledge the paternity of the child, the agencies described in paragraph (b) of subsection 1 shall ensure that the mother and the person who wishes to acknowledge paternity are given notice, orally and in writing, of the rights, responsibilities and legal consequences of, and the alternatives to, signing the ~~[affidavit]~~ ***declaration*** for the acknowledgment of paternity.

Sec. 9. NRS 440.287 is hereby amended to read as follows:

440.287 1. If a mother or a person who has signed ~~[an affidavit]~~ ***a declaration*** for the voluntary acknowledgment of paternity with the mother rescinds the acknowledgment pursuant to subsection 2 of NRS 126.053, the State Registrar shall not issue a new certificate of birth to remove the name of the person who originally acknowledged paternity unless a court issues an order establishing that the person who acknowledged paternity is not the father of the child.

2. As used in this section, "court" has the meaning ascribed to it in NRS 125B.004.

Sec. 10. NRS 440.325 is hereby amended to read as follows:

440.325 1. In the case of the paternity of a child being established by the:

(a) Mother and father acknowledging paternity of a child by signing ~~[an affidavit]~~ ***a declaration*** for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283; or

(b) Order of a district court,

➥ the State Registrar, upon the receipt of the ~~[affidavit]~~ ***declaration*** or court order, shall prepare a new certificate of birth in the name of the child as

shown in the ~~[affidavit]~~ ***declaration*** or order with no reference to the fact of legitimation.

2. The new certificate must be identical with the certificate registered for the birth of a child born in wedlock.

3. Except as otherwise provided in subsection 4, the evidence upon which the new certificate was made and the original certificate must be sealed and filed and may be opened only upon the order of a court of competent jurisdiction.

4. The State Registrar shall, upon the request of the Division of Welfare and Supportive Services of the Department of Health and Human Services, open a file that has been sealed pursuant to subsection 3 to allow the Division to compare the information contained in the ~~[affidavit]~~ ***declaration*** or order upon which the new certificate was made with the information maintained pursuant to 42 U.S.C. § 654a.

Sec. 11. NRS 449.246 is hereby amended to read as follows:

449.246 1. Before discharging an unmarried woman who has borne a child, a hospital or obstetric center shall provide to the child's mother and father:

(a) The opportunity to sign, in the hospital, ~~[an affidavit]~~ ***a declaration*** for the voluntary acknowledgment of paternity developed pursuant to NRS 440.283;

(b) Written materials about establishing paternity;

(c) The forms necessary to acknowledge paternity voluntarily;

(d) A written description of the rights and responsibilities of acknowledging paternity; and

(e) The opportunity to speak by telephone with personnel of the program for enforcement of child support who are trained to clarify information and answer questions about the establishment of paternity.

2. The Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services shall adopt the regulations necessary to ensure that the services provided by a hospital or obstetric center pursuant to this section are in compliance with the regulations adopted by the Secretary of Health and Human Services pursuant to 42 U.S.C. § 666(a)(5)(C).

Sec. 12. NRS 652.210 is hereby amended to read as follows:

652.210 ~~[No]~~

1. Except as otherwise provided in subsection 2 and NRS 126.121, no person other than a licensed physician, a licensed optometrist, a licensed practical nurse, a registered nurse, a licensed physician assistant, a certified osteopathic physician's assistant, a certified intermediate emergency medical technician, a certified advanced emergency medical technician, a practitioner of respiratory care licensed pursuant to chapter 630 of NRS or a licensed dentist may manipulate a person for the collection of specimens ***.*** ~~[, except that]~~

2. ***The*** technical personnel of a laboratory may collect blood, remove stomach contents, perform certain diagnostic skin tests or field blood tests or collect material for smears and cultures.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 498.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 178.

The following Senate amendment was read:

Amendment No. 770.

AN ACT relating to energy; **requiring certain lights sold in this State to meet certain standards of energy efficiency; revising the authority of the Director of the Office of Energy;** revising various provisions relating to net metering; providing for the establishment of the Wind Energy Systems Demonstration Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill prohibits the sale in this State of certain general purpose lights that do not produce a certain amount of lumens per watt of electricity consumed, and requires the Director of the Office of Energy to adopt regulations establishing a minimum standard of energy efficiency for such lights.

Existing law authorizes a customer of an electric utility to use a net metering system on the customer's premises to generate electricity to offset part or all of the customer's requirements for electricity. The net metering system must use renewable energy as its primary source of energy to generate electricity, and the system is allowed to have a generating capacity of not more than 150 kilowatts. (NRS 704.766-704.775)

Section ~~[1]~~ **1.4** of this bill provides that one of the purposes and policies of the Legislature in enacting the net metering statutes is to streamline the process for customers of a utility to apply for and install net metering systems.

Section 1.5 of this bill provides for a general increase in the permissible capacity of net metering systems and allows a customer-generator to use a net metering system of not more than 1 megawatt. However, section 1.5 also places specific limitations on the capacity of net metering systems under certain circumstances.

Section 2 of this bill requires the Public Utilities Commission of Nevada to adopt regulations regarding a net metering tariff and a standard net metering contract. Section 3 of this bill changes the method for calculating the value of the electricity generated by certain net metering systems.

Under the Solar Energy Systems Demonstration Program Act, certain entities, such as schools and public agencies, which install solar energy

systems are entitled to participate in a demonstration program and receive incentives for such participation. (Chapter 331, Statutes of Nevada 2003, p. 1868) The Solar Energy Systems Demonstration Program Act expires by limitation on June 30, 2010. (Chapter 2, Statutes of Nevada 2005, 22nd Special Session, p. 90)

Sections 5-29 of this bill enact the Wind Energy Systems Demonstration Program Act, a similar demonstration program for wind energy systems. Under this bill, the Wind Energy Systems Demonstration Program Act 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. **Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. Between January 1, 2012, and December 31, 2015, inclusive, no general purpose light may be sold in this State unless it produces at least 25 lumens per watt of electricity consumed.

2. On and after January 1, 2016, no general purpose light may be sold in this State unless it meets or exceeds the minimum standard of energy efficiency established by the Director pursuant to subsection 3 for lumens per watt of electricity consumed.

3. The Director shall adopt regulations to carry out the provisions of this section. The regulations must, without limitation:

(a) Establish a minimum standard of energy efficiency for lumens per watt of electricity consumed that must be produced by general purpose lights sold in this State on and after January 1, 2016. The minimum standard of energy efficiency established by the Director must exceed 25 lumens per watt of electricity consumed.

(b) Attempt to minimize the overall cost to consumers for general purpose lighting, considering the needs of consumers relating to lighting, technological feasibility and anticipated product availability and performance.

4. As used in this section, "general purpose light" means lamps, bulbs, tubes or other devices that provide functional illumination for indoor or outdoor use. The term does not include "specialty lighting" or "lighting necessary to provide illumination for persons with special needs," as defined by the Director by regulation.

Sec. 1.3. **NRS 701.170 is hereby amended to read as follows:**

701.170 The Director may:

1. Administer any gifts or grants which the Office of Energy is authorized to accept for the purposes of this chapter.

2. Expend money received from those gifts or grants or from legislative appropriations to contract with qualified persons or institutions for research in the production and efficient use of energy resources.

3. Enter into any cooperative agreement with any federal or state agency or political subdivision.

4. Participate in any program established by the Federal Government relating to sources of energy and adopt regulations appropriate to that program.

5. Assist developers of renewable energy generation projects in preparing and making requests to obtain money for development through the issuance of industrial development revenue bonds pursuant to NRS 349.400 to 349.670, inclusive.

6. Adopt any regulations that the Director determines are necessary to carry out the duties of the Office of Energy pursuant to this chapter.

7. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, promote, participate in the operation of, and create or cause to be created, any nonprofit corporation, pursuant to chapter 82 of NRS, which he determines is necessary or convenient for the exercise of the powers and duties of the Office of Energy. The purposes, powers and operation of the corporation must be consistent with the purposes, powers and duties of the Office of Energy.

8. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the Director or the Office of Energy.

~~[Section 1.]~~ ***Sec. 1.4.*** NRS 704.766 is hereby amended to read as follows:

704.766 It is hereby declared to be the purpose and policy of the Legislature in enacting NRS 704.766 to 704.775, inclusive, to:

1. Encourage private investment in renewable energy resources;

2. Stimulate the economic growth of this State; ~~[and]~~

3. Enhance the continued diversification of the energy resources used in this State ~~[.]~~ ***; and***

4. Streamline the process for customers of a utility to apply for and install net metering systems.

Sec. 1.5. NRS 704.771 is hereby amended to read as follows:

704.771 ***1.*** "Net metering system" means a facility or energy system for the generation of electricity that:

~~[1.]~~ ***(a)*** Uses renewable energy as its primary source of energy to generate electricity;

~~[2.]~~ ***(b)*** Has a generating capacity of not more than ~~[150 kilowatts;~~ ~~3.]~~ ***1 megawatt;***

(c) Is located on the customer-generator's premises;

~~[4.]~~ ***(d)*** Operates in parallel with the utility's transmission and distribution facilities; and

~~[5.]~~ ***(e)*** Is intended primarily to offset part or all of the customer-generator's requirements for electricity.

2. The term does not include a facility or energy system for the generation of electricity which has a generating capacity that exceeds the greater of:

(a) The limit on the demand that the class of customer of the customer-generator may place on the system of the utility; or

(b) One hundred fifty percent of the peak demand of the customer.

Sec. 2. NRS 704.773 is hereby amended to read as follows:

704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all such net metering systems is equal to 1 percent of the utility's peak capacity.

2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than ~~[30]~~ ***100*** kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.

3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than ~~[30]~~ ***100*** kilowatts, the utility ~~[may:~~

~~(a) Require]~~ ***:***

(a) May require the customer-generator to install at its own cost ~~[an]~~ ***:***

(1) An energy meter that is capable of measuring generation output and customer load ~~[.]~~ ***; and***

(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.

(b) ~~[Charge]~~ ***Except as otherwise provided in paragraph (c), may charge*** the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.

(c) Shall not charge the customer-generator any standby charge.

4. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:

(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:

(1) Metering equipment;

(2) Net energy metering and billing; and

(3) Interconnection,
➥ based on the allowable size of the net metering system.

(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.

(c) A timeline for processing applications and contracts for net metering applicants.

(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 3. NRS 704.775 is hereby amended to read as follows:

704.775 1. The billing period for net metering must be a monthly period.

2. ~~[If a customer-generator's net metering system has a capacity of not more than 30 kilowatts, the]~~ ***The*** net energy measurement must be calculated in the following manner:

(a) The utility shall measure, in kilowatt-hours, the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(b) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net electricity supplied by the utility.

(c) If the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period:

(1) Neither the utility nor the customer-generator is entitled to compensation for *the* electricity provided to the other during the billing period.

(2) The excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to the kilowatt - hours generated by the customer-generator in that billing period. If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods.

(3) Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if:

(I) The net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities;

(II) The customer-generator ceases to be a customer of the utility at the premises served by the net metering system; or

(III) The customer-generator transfers the net metering system to another person.

(4) The ***value of the*** excess electricity ~~[which is fed back to the utility shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.~~

~~3. If a customer-generator's net metering system has a capacity of more than 30 kilowatts, the net energy measurement must be calculated in the following manner:~~

~~(a) The utility shall:~~

~~(1) Measure, in kilowatt-hours, the amount of electricity supplied by the utility to the customer-generator during the billing period and calculate its value using the tariff that would be applicable if the customer-generator did not use a net metering system; and~~

~~(2) Measure, in kilowatt-hours, the amount of electricity generated by the customer-generator which is fed back to the utility during the billing period and calculate its value at a rate that is consistent with the rate used to calculate the value of the electricity supplied by the utility.~~

~~(b) If the value of electricity supplied by the utility exceeds the value of the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net value of the electricity supplied by the utility.~~

~~(c) If the value of the electricity generated by the customer-generator which is fed back to the utility exceeds the value of the electricity supplied by the utility during the billing period:~~

~~(1) Neither the utility nor the customer-generator is entitled to compensation for the value of the electricity provided to the other during the billing period.~~

~~(2) The value of the excess electricity:~~

~~(I) Must not be shown as a credit on the customer-generator's bill for that billing period but must be reflected as a credit that is carried forward to offset the value of the electricity supplied by the utility during a subsequent billing period. At the discretion of the utility, the credit may be in a dollar amount or in kilowatt-hours. If the credit is reflected as excess electricity and the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods. Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if the net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities, the customer-generator ceases to be a customer of the utility at the premises served by the net~~

~~metering system or the customer-generator transfers the net metering system to another person.~~

~~(II) Does not reduce any other fee or charge imposed by the utility.~~

~~(3) The excess electricity which is fed back to the utility~~] ***must not be used to reduce any other fee or charge imposed by the utility.***

3. If the cost of purchasing and installing a net metering system was paid for:

(a) In whole or in part by a utility, the electricity generated by the net metering system shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.

(b) Entirely by a customer-generator, the Commission shall issue to the customer-generator portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the electricity generated by the net metering system.

4. A bill for electrical service is due at the time established pursuant to the terms of the contract between the utility and the customer-generator.

Sec. 4. NRS 704.860 is hereby amended to read as follows:

704.860 "Utility facility" means:

1. Electric generating plants and their associated facilities, except:

(a) Electric generating plants and their associated facilities that are or will be located entirely within the boundaries of a county whose population is 100,000 or more; or

(b) Electric generating plants and their associated facilities which use or will use renewable energy, as defined in NRS 704.7811, as their primary source of energy to generate electricity and which have or will have a generating capacity of not more than ~~[150 kilowatts,]~~ ***1 megawatt,*** including, without limitation, a net metering system, as defined in NRS 704.771.

➥ As used in this subsection, "associated facilities" includes, without limitation, any facilities for the storage, transmission or treatment of water, including, without limitation, facilities to supply water or for the treatment or disposal of wastewater, which support or service an electric generating plant.

2. Electric transmission lines and transmission substations that:

(a) Are designed to operate at 200 kilovolts or more;

(b) Are not required by local ordinance to be placed underground; and

(c) Are constructed outside any incorporated city.

3. Gas transmission lines, storage plants, compressor stations and their associated facilities when constructed outside:

(a) Any incorporated city; and

(b) Any county whose population is 100,000 or more.

4. Water storage, transmission and treatment facilities, other than facilities for the storage, transmission or treatment of water from mining operations.

5. Sewer transmission and treatment facilities.

Sec. 5. Sections 5 to 29, inclusive, of this act may be cited as the Wind Energy Systems Demonstration Program Act.

Sec. 6. As used in sections 5 to 29, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 7 to 21, inclusive, of this act have the meaning ascribed to them in those sections.

Sec. 7. "Agricultural property" means any real property employed for an agricultural use as defined in NRS 361A.030.

Sec. 8. "Applicant" means a person who is applying to participate in the Wind Demonstration Program.

Sec. 9. "Category" means one of the categories of participation in the Wind Demonstration Program as set forth in section 22 of this act.

Sec. 10. "Commission" means the Public Utilities Commission of Nevada.

Sec. 11. "Committee" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.

Sec. 12. "Institution of higher education" means:

1. A university, college or community college which is privately owned or which is part of the Nevada System of Higher Education; or

2. A postsecondary educational institution, as defined in NRS 394.099, or any other institution of higher education.

Sec. 13. "Participant" means a person who has been selected by the Committee pursuant to section 26 of this act to participate in the Wind Demonstration Program.

Sec. 14. "Person" includes **, without limitation,** a governmental entity.

Sec. 15. "Program year" means the period of July 1 to June 30 of the following year.

Sec. 16. "Public property" means any real property, building or facilities owned, leased or occupied by:

1. A department, agency or instrumentality of the State or any of its political subdivisions which is used for the transaction of public or quasi-public business; or

2. A nonprofit organization that is recognized as exempt from taxation pursuant to ~~[26 U.S.C. §]~~ **section** 501(c)(3) of the Internal Revenue Code, **26 U.S.C. § 501(c)(3),** as amended, or a corporation for public benefit as defined in NRS 82.021.

Sec. 17. "School property" means any real property, building or facilities owned, leased or occupied by:

1. A public school as defined in NRS 385.007;

2. A private school as defined in NRS 394.103; or

3. An institution of higher education.

Sec. 18. "Small business" means a business conducted for profit which employs 500 or fewer full-time or part-time employees.

Sec. 19. "Utility" means a public utility that supplies electricity in this State.

Sec. 20. ”Wind Demonstration Program” or “Program” means the Wind Energy Systems Demonstration Program created by section 22 of this act.

Sec. 21. ”Wind energy system” means a facility or energy system for the generation of electricity that uses wind energy to generate electricity.

Sec. 22. 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The Program must have four categories as follows:

(a) School property;

(b) Other public property;

(c) Private residential property and small business property; and

(d) Agricultural property.

3. To be eligible to participate in the Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to section 23 of this act;

(b) Submit an application to a utility and be selected by the Committee for inclusion in the Program pursuant to sections 25 and 26 of this act;

(c) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors’ Board pursuant to the regulations adopted by the Board; and

(d) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.

Sec. 23. The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in the Program in each particular category of:

(a) School property;

(b) Other public property;

(c) Private residential property and small business property; and

(d) Agricultural property.

2. The type of incentives available to participants in the Program and the level or amount of those incentives.

3. The requirements for a utility’s annual plan for carrying out and administering the Program. A utility’s annual plan must include, without limitation:

(a) A detailed plan for advertising the Program;

(b) A detailed budget and schedule for carrying out and administering the Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Program, including **, without limitation,**

a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's wind energy system and compliance with the Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Program; and

(f) Any other information required by the Commission.

Sec. 24. 1. Each utility shall carry out and administer the Wind Demonstration Program within its service area in accordance with its annual plan as approved by the Commission pursuant to section 25 of this act.

2. A utility may recover its reasonable and prudent costs, including, without limitation, incentives [,] that are associated with carrying out and administering the Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 25. 1. On or before February 1, 2008, and on or before February 1 of each year thereafter, each utility shall file with the Commission its annual plan for carrying out and administering the Wind Demonstration Program within its service area for the following program year.

2. On or before July 1, 2008, and on or before July 1 of each year thereafter, the Commission shall:

(a) Review the annual plan filed by each utility for compliance with the requirements established by regulation; and

(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

3. On or before November 1, 2008, and on or before November 1 of each year thereafter, each utility shall submit to the Committee the utility's recommendations as to which applications received by the utility should be approved for participation in the Program. The Committee shall review the applications to ensure that each applicant meets the qualifications and requirements to be eligible to participate in the Program.

4. Except as otherwise provided in section 26 of this act, the Committee may approve, from among the applications recommended by each utility, wind energy systems totaling:

(a) For the program year beginning July 1, 2008:

(1) 500 kilowatts of capacity for school property;

(2) 500 kilowatts of capacity for other public property;

(3) 700 kilowatts of capacity for private residential property and small business property; and

(4) 700 kilowatts of capacity for agricultural property.

(b) For the program year beginning July 1, 2009:

(1) An additional 250 kilowatts of capacity for school property;

(2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

(c) For the program year beginning July 1, 2010:

(1) An additional 250 kilowatts of capacity for school property;

(2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

Sec. 26. 1. Based on the applications submitted by each utility for a program year, the Committee shall:

(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Wind Demonstration Program and place those applicants on a list of participants; and

(b) Select applicants to be placed on a prioritized waiting list to become participants in the Program if any capacity within a category becomes available.

2. Not later than 30 days after the date on which the Committee selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the Committee on behalf of the applicant shall provide written notice of the selection to the applicant.

3. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the Committee may, in any combination it deems appropriate:

(a) Allow a utility to submit additional applications from applicants who want to participate in that category; or

(b) Reallocate any of the unused capacity in that category to any of the other categories.

4. At any time after submitting an application to participate in the Program to a utility, an applicant may energize his wind energy system if the wind energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who energizes his wind energy system under such circumstances remains eligible to participate in the Program, and the energizing of the wind energy system does not alter the applicant's status on the list of participants or the prioritized waiting list.

Sec. 27. 1. Except as otherwise provided in this section, if the Committee determines that a participant has not complied with the requirements for participation in the Wind Demonstration Program, the Committee shall, after notice and an opportunity for a hearing, withdraw the participant from the Program.

2. The Committee may, without notice or an opportunity for a hearing, withdraw from the Program:

(a) A participant in the category of private residential property and small business property or a participant in the category of agricultural property if

the participant does not complete the installation of a wind energy system within 12 months after the date the participant receives written notice of his selection to participate in the Program.

(b) A participant in the category of school property or a participant in the category of other public property if the participant does not complete the installation of a wind energy system within 30 months after the date the participant receives written notice of his selection to participate in the Program.

3. A participant who is withdrawn from the Program pursuant to subsection 2 forfeits any incentives.

Sec. 28. 1. After a participant installs a wind energy system included in the Wind Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the actual or estimated kilowatt-hour production of the wind energy system.

2. All portfolio credits issued for a wind energy system installed pursuant to the Wind Demonstration Program must be assigned to and become the property of the utility administering the Program.

Sec. 29. If a wind energy system used by a participant in the Wind Demonstration Program meets the requirements of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 29.5. **The Director of the Office of Energy shall adopt the regulations required by section 1 of this act on or before October 1, 2011.**

Sec. 30. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) On October 1, 2007, for all other purposes.

2. Sections 5 to 29, inclusive, of this act expire by limitation on June 30, 2011.

Assemblyman Oceguera moved that the Assembly concur in the Senate Amendment No. 770 to Assembly Bill No. 178.

Remarks by Assemblyman Oceguera.

Motion carried.

The following Senate amendment was read:

Amendment No. 1013.

AN ACT relating to energy; requiring certain lights sold in this State to meet certain standards of energy efficiency; revising the authority of the Director of the Office of Energy; **revising the membership of the Task Force for Renewable Energy and Energy Conservation;** revising various provisions relating to net metering; **providing for the establishment of a pilot program to collect and separate recyclable material that may be used as renewable energy or converted into renewable fuel;** providing for

the establishment of the Wind Energy Systems Demonstration Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill prohibits the sale in this State of certain general purpose lights that do not produce a certain amount of lumens per watt of electricity consumed, and requires the Director of the Office of Energy to adopt regulations establishing a minimum standard of energy efficiency for such lights.

Existing law provides for the membership of the Task Force for Renewable Energy and Energy Conservation. (NRS 701.350) Sections 1.35 and 29.7 of this bill revise the membership of the Task Force.

Existing law authorizes a customer of an electric utility to use a net metering system on the customer's premises to generate electricity to offset part or all of the customer's requirements for electricity. The net metering system must use renewable energy as its primary source of energy to generate electricity, and the system is allowed to have a generating capacity of not more than 150 kilowatts. (NRS 704.766-704.775)

Section 1.4 of this bill provides that one of the purposes and policies of the Legislature in enacting the net metering statutes is to streamline the process for customers of a utility to apply for and install net metering systems.

Section 1.5 of this bill provides for a general increase in the permissible capacity of net metering systems and allows a customer-generator to use a net metering system of not more than 1 megawatt. However, section 1.5 also places specific limitations on the capacity of net metering systems under certain circumstances.

Section 2 of this bill requires the Public Utilities Commission of Nevada to adopt regulations regarding a net metering tariff and a standard net metering contract. Section 3 of this bill changes the method for calculating the value of the electricity generated by certain net metering systems.

Existing law provides for the establishment of programs for collecting and separating recyclable material. (Chapter 444A of NRS) Section 4.5 of this bill provides that in a county whose population is 400,000 or more (currently Clark County), the board of county commissioners shall, in conjunction with each licensed hauler of garbage and refuse, establish a pilot program for collecting and separating recyclable material that may be used as a source of renewable energy or converted into renewable fuel.

Under the Solar Energy Systems Demonstration Program Act, certain entities, such as schools and public agencies, which install solar energy systems are entitled to participate in a demonstration program and receive incentives for such participation. (Chapter 331, Statutes of Nevada 2003, p. 1868) The Solar Energy Systems Demonstration Program Act expires by limitation on June 30, 2010. (Chapter 2, Statutes of Nevada 2005, 22nd Special Session, p. 90)

Sections 5-29 of this bill enact the Wind Energy Systems Demonstration Program Act, a similar demonstration program for wind energy systems. Under this bill, the Wind Energy Systems Demonstration Program Act 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. Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Between January 1, 2012, and December 31, 2015, inclusive, no general purpose light may be sold in this State unless it produces at least 25 lumens per watt of electricity consumed.

2. On and after January 1, 2016, no general purpose light may be sold in this State unless it meets or exceeds the minimum standard of energy efficiency established by the Director pursuant to subsection 3 for lumens per watt of electricity consumed.

3. The Director shall adopt regulations to carry out the provisions of this section. The regulations must, without limitation:

(a) Establish a minimum standard of energy efficiency for lumens per watt of electricity consumed that must be produced by general purpose lights sold in this State on and after January 1, 2016. The minimum standard of energy efficiency established by the Director must exceed 25 lumens per watt of electricity consumed.

(b) Attempt to minimize the overall cost to consumers for general purpose lighting, considering the needs of consumers relating to lighting, technological feasibility and anticipated product availability and performance.

4. As used in this section, "general purpose light" means lamps, bulbs, tubes or other devices that provide functional illumination for indoor or outdoor use. The term does not include "specialty lighting" or "lighting necessary to provide illumination for persons with special needs," as defined by the Director by regulation.

Sec. 1.3. NRS 701.170 is hereby amended to read as follows:

701.170 The Director may:

1. Administer any gifts or grants which the Office of Energy is authorized to accept for the purposes of this chapter.

2. Expend money received from those gifts or grants or from legislative appropriations to contract with qualified persons or institutions for research in the production and efficient use of energy resources.

3. Enter into any cooperative agreement with any federal or state agency or political subdivision.

4. Participate in any program established by the Federal Government relating to sources of energy and adopt regulations appropriate to that program.

5. Assist developers of renewable energy generation projects in preparing and making requests to obtain money for development through the issuance of industrial development revenue bonds pursuant to NRS 349.400 to 349.670, inclusive.

6. Adopt any regulations that the Director determines are necessary to carry out the duties of the Office of Energy pursuant to this chapter.

7. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, promote, participate in the operation of, and create or cause to be created, any nonprofit corporation, pursuant to chapter 82 of NRS, which he determines is necessary or convenient for the exercise of the powers and duties of the Office of Energy. The purposes, powers and operation of the corporation must be consistent with the purposes, powers and duties of the Office of Energy.

8. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the Director or the Office of Energy.

Sec. 1.35. **NRS 701.350 is hereby amended to read as follows:**

701.350 1. The Task Force for Renewable Energy and Energy Conservation is hereby created. The Task Force consists of ~~[11]~~ ***15*** members who are appointed as follows:

(a) Two members appointed by the Majority Leader of the Senate, one of whom represents the interests of the renewable energy industry in this State with respect to biomass and the other of whom represents the interests of the mining industry in this State.

(b) Two members appointed by the Speaker of the Assembly, one of whom represents the interests of the renewable energy industry in this State with respect to geothermal energy and the other of whom represents the interests of a nonprofit organization dedicated to the protection of the environment or to the conservation of energy or the efficient use of energy.

(c) One member appointed by the Minority Leader of the Senate to represent the interests of the renewable energy industry in this State with respect to solar energy.

(d) One member appointed by the Minority Leader of the Assembly to represent the interests of the public utilities in this State.

(e) Two members appointed by the Governor, one of whom represents the interests of the renewable energy industry in this State with respect to wind and the other of whom represents the interests of the gaming industry in this State.

(f) One member appointed by the Consumer's Advocate to represent the interests of the consumers in this State.

(g) One member appointed by the governing board of the State of Nevada AFL-CIO or, if the State of Nevada AFL-CIO ceases to exist, by its successor organization or, if there is no successor organization, by the Governor.

(h) One member appointed by the Governor to represent the interests of energy conservation and the efficient use of energy in this State.

(i) One member appointed by the Desert Research Institute or its successor organization or, if there is no successor organization, by the Governor.

(j) One member appointed by the Commission on Economic Development.

(k) Two members appointed jointly by the United States Senators of this State.

2. A member of the Task Force:

(a) Must be a citizen of the United States and a resident of this State.

(b) Must have training, education, experience or knowledge concerning:

(1) The development or use of renewable energy;

(2) Financing, planning or constructing renewable energy generation projects;

(3) Measures which conserve or reduce the demand for energy or which result in more efficient use of energy;

(4) Weatherization;

(5) Building and energy codes and standards;

(6) Grants or incentives concerning energy;

(7) Public education or community relations; or

(8) Any other matter within the duties of the Task Force.

(c) Must not be an officer or employee of the Legislative or Judicial Department of State Government.

3. After the initial terms, the term of each member of the Task Force is 3 years. A vacancy on the Task Force must be filled for the remainder of the unexpired term in the same manner as the original appointment. A member may be reappointed to the Task Force.

4. A member of the Task Force who is an officer or employee of this State or a political subdivision of this State must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Task Force and perform any work that is necessary to carry out the duties of the Task Force in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Task Force to:

(a) Make up the time he is absent from work to carry out his duties as a member of the Task Force; or

(b) Take annual leave or compensatory time for the absence.

Sec. 1.4. NRS 704.766 is hereby amended to read as follows:

704.766 It is hereby declared to be the purpose and policy of the Legislature in enacting NRS 704.766 to 704.775, inclusive, to:

1. Encourage private investment in renewable energy resources;

2. Stimulate the economic growth of this State; ~~[and]~~

3. Enhance the continued diversification of the energy resources used in this State ~~[.]~~ *; and*

4. Streamline the process for customers of a utility to apply for and install net metering systems.

Sec. 1.5. NRS 704.771 is hereby amended to read as follows:

704.771 ***1.*** "Net metering system" means a facility or energy system for the generation of electricity that:

~~[1.]~~ ***(a)*** Uses renewable energy as its primary source of energy to generate electricity;

~~[2.]~~ ***(b)*** Has a generating capacity of not more than ~~[150 kilowatts;~~

~~3.]~~ ***1 megawatt;***

(c) Is located on the customer-generator's premises;

~~[4.]~~ ***(d)*** Operates in parallel with the utility's transmission and distribution facilities; and

~~[5.]~~ ***(e)*** Is intended primarily to offset part or all of the customer-generator's requirements for electricity.

2. The term does not include a facility or energy system for the generation of electricity which has a generating capacity that exceeds the greater of:

(a) The limit on the demand that the class of customer of the customer-generator may place on the system of the utility; or

(b) One hundred fifty percent of the peak demand of the customer.

Sec. 2. NRS 704.773 is hereby amended to read as follows:

704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all such net metering systems is equal to 1 percent of the utility's peak capacity.

2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than ~~[30]~~ ***100*** kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.

3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than ~~[30]~~ *100* kilowatts, the utility ~~[may:~~

~~(a) Require]~~ *:*

(a) May require the customer-generator to install at its own cost ~~[an]~~ *:*

(1) An energy meter that is capable of measuring generation output and customer load ~~[.]~~ ***; and***

(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.

(b) ~~[Charge]~~ ***Except as otherwise provided in paragraph (c), may charge*** the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.

(c) Shall not charge the customer-generator any standby charge.

4. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:

(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:

(1) Metering equipment;

(2) Net energy metering and billing; and

(3) Interconnection,

➥ based on the allowable size of the net metering system.

(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.

(c) A timeline for processing applications and contracts for net metering applicants.

(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 3. NRS 704.775 is hereby amended to read as follows:

704.775 1. The billing period for net metering must be a monthly period.

2. ~~[If a customer-generator's net metering system has a capacity of not more than 30 kilowatts, the]~~ ***The*** net energy measurement must be calculated in the following manner:

(a) The utility shall measure, in kilowatt-hours, the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(b) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net electricity supplied by the utility.

(c) If the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period:

(1) Neither the utility nor the customer-generator is entitled to compensation for ***the*** electricity provided to the other during the billing period.

(2) The excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to

the kilowatt - hours generated by the customer-generator in that billing period. If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods.

(3) Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if:

(I) The net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities;

(II) The customer-generator ceases to be a customer of the utility at the premises served by the net metering system; or

(III) The customer-generator transfers the net metering system to another person.

(4) The ***value of the*** excess electricity ~~[which is fed back to the utility shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.~~

~~3. If a customer-generator's net metering system has a capacity of more than 30 kilowatts, the net energy measurement must be calculated in the following manner:~~

~~(a) The utility shall:~~

~~(1) Measure, in kilowatt hours, the amount of electricity supplied by the utility to the customer generator during the billing period and calculate its value using the tariff that would be applicable if the customer-generator did not use a net metering system; and~~

~~(2) Measure, in kilowatt hours, the amount of electricity generated by the customer-generator which is fed back to the utility during the billing period and calculate its value at a rate that is consistent with the rate used to calculate the value of the electricity supplied by the utility.~~

~~(b) If the value of electricity supplied by the utility exceeds the value of the electricity generated by the customer generator which is fed back to the utility during the billing period, the customer generator must be billed for the net value of the electricity supplied by the utility.~~

~~(c) If the value of the electricity generated by the customer generator which is fed back to the utility exceeds the value of the electricity supplied by the utility during the billing period:~~

~~(1) Neither the utility nor the customer generator is entitled to compensation for the value of the electricity provided to the other during the billing period.~~

~~(2) The value of the excess electricity:~~

~~(I) Must not be shown as a credit on the customer generator's bill for that billing period but must be reflected as a credit that is carried forward to~~

~~offset the value of the electricity supplied by the utility during a subsequent billing period. At the discretion of the utility, the credit may be in a dollar amount or in kilowatt-hours. If the credit is reflected as excess electricity and the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods. Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if the net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities, the customer-generator ceases to be a customer of the utility at the premises served by the net metering system or the customer-generator transfers the net metering system to another person.~~

~~(II) Does not reduce any other fee or charge imposed by the utility.~~

~~(3) The excess electricity which is fed back to the utility~~] ***must not be used to reduce any other fee or charge imposed by the utility.***

3. If the cost of purchasing and installing a net metering system was paid for:

(a) In whole or in part by a utility, the electricity generated by the net metering system shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.

(b) Entirely by a customer-generator, the Commission shall issue to the customer-generator portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the electricity generated by the net metering system.

4. A bill for electrical service is due at the time established pursuant to the terms of the contract between the utility and the customer-generator.

Sec. 4. NRS 704.860 is hereby amended to read as follows:

704.860 "Utility facility" means:

1. Electric generating plants and their associated facilities, except:

(a) Electric generating plants and their associated facilities that are or will be located entirely within the boundaries of a county whose population is 100,000 or more; or

(b) Electric generating plants and their associated facilities which use or will use renewable energy, as defined in NRS 704.7811, as their primary source of energy to generate electricity and which have or will have a generating capacity of not more than ~~[150 kilowatts,]~~ ***1 megawatt,*** including, without limitation, a net metering system, as defined in NRS 704.771.

➥ As used in this subsection, "associated facilities" includes, without limitation, any facilities for the storage, transmission or treatment of water,

including, without limitation, facilities to supply water or for the treatment or disposal of wastewater, which support or service an electric generating plant.

2. Electric transmission lines and transmission substations that:

(a) Are designed to operate at 200 kilovolts or more;

(b) Are not required by local ordinance to be placed underground; and

(c) Are constructed outside any incorporated city.

3. Gas transmission lines, storage plants, compressor stations and their associated facilities when constructed outside:

(a) Any incorporated city; and

(b) Any county whose population is 100,000 or more.

4. Water storage, transmission and treatment facilities, other than facilities for the storage, transmission or treatment of water from mining operations.

5. Sewer transmission and treatment facilities.

Sec. 4.5. **Chapter 444A of NRS is hereby amended by adding thereto a new section to read as follows:**

1. The board of county commissioners in a county whose population is 400,000 or more shall, in conjunction with each licensed hauler of garbage and refuse operating in the county, establish a pilot program for collecting and separating recyclable material that has the potential to be used as a source of renewable energy or converted into renewable fuel.

2. The pilot program must include, without limitation:

(a) An exploration of technologies and processes that are able to use recyclable material as a source of renewable energy or convert recyclable material into renewable fuel.

(b) The creation and maintenance of adequate records to allow an assessment of the feasibility of establishing a statewide recycling standard.

3. The pilot program must not conflict with the standards relating to recyclable material adopted by the State Environmental Commission pursuant to NRS 444A.020.

4. As used in this section:

(a) "Licensed hauler of garbage and refuse" means a person who holds the licenses and permits required to operate a business of collecting and disposing of garbage and refuse. The term includes a person who is licensed to operate a business of collecting recyclable material.

(b) "Recyclable material" has the meaning ascribed to it in NRS 444A.013.

Sec. 5. Sections 5 to 29, inclusive, of this act may be cited as the Wind Energy Systems Demonstration Program Act.

Sec. 6. As used in sections 5 to 29, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 7 to 21, inclusive, of this act have the meaning ascribed to them in those sections.

Sec. 7. "Agricultural property" means any real property employed for an agricultural use as defined in NRS 361A.030.

Sec. 8. ”Applicant” means a person who is applying to participate in the Wind Demonstration Program.

Sec. 9. ”Category” means one of the categories of participation in the Wind Demonstration Program as set forth in section 22 of this act.

Sec. 10. ”Commission” means the Public Utilities Commission of Nevada.

Sec. 11. ”Committee” means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.

Sec. 12. ”Institution of higher education” means:

1. A university, college or community college which is privately owned or which is part of the Nevada System of Higher Education; or

2. A postsecondary educational institution, as defined in NRS 394.099, or any other institution of higher education.

Sec. 13. ”Participant” means a person who has been selected by the Committee pursuant to section 26 of this act to participate in the Wind Demonstration Program.

Sec. 14. ”Person” includes, without limitation, a governmental entity.

Sec. 15. ”Program year” means the period of July 1 to June 30 of the following year.

Sec. 16. ”Public property” means any real property, building or facilities owned, leased or occupied by:

1. A department, agency or instrumentality of the State or any of its political subdivisions which is used for the transaction of public or quasi-public business; or

2. A nonprofit organization that is recognized as exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), as amended, or a corporation for public benefit as defined in NRS 82.021.

Sec. 17. ”School property” means any real property, building or facilities owned, leased or occupied by:

1. A public school as defined in NRS 385.007;

2. A private school as defined in NRS 394.103; or

3. An institution of higher education.

Sec. 18. ”Small business” means a business conducted for profit which employs 500 or fewer full-time or part-time employees.

Sec. 19. ”Utility” means a public utility that supplies electricity in this State.

Sec. 20. ”Wind Demonstration Program” or “Program” means the Wind Energy Systems Demonstration Program created by section 22 of this act.

Sec. 21. ”Wind energy system” means a facility or energy system for the generation of electricity that uses wind energy to generate electricity.

Sec. 22. 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The Program must have four categories as follows:

(a) School property;

(b) Other public property;

(c) Private residential property and small business property; and

(d) Agricultural property.

3. To be eligible to participate in the Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to section 23 of this act;

(b) Submit an application to a utility and be selected by the Committee for inclusion in the Program pursuant to sections 25 and 26 of this act;

(c) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(d) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.

Sec. 23. The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in the Program in each particular category of:

(a) School property;

(b) Other public property;

(c) Private residential property and small business property; and

(d) Agricultural property.

2. The type of incentives available to participants in the Program and the level or amount of those incentives.

3. The requirements for a utility's annual plan for carrying out and administering the Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Program;

(b) A detailed budget and schedule for carrying out and administering the Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's wind energy system and compliance with the Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Program; and

(f) Any other information required by the Commission.

Sec. 24. 1. Each utility shall carry out and administer the Wind Demonstration Program within its service area in accordance with its annual plan as approved by the Commission pursuant to section 25 of this act.

2. A utility may recover its reasonable and prudent costs, including, without limitation, incentives that are associated with carrying out and administering the Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 25. 1. On or before February 1, 2008, and on or before February 1 of each year thereafter, each utility shall file with the Commission its annual plan for carrying out and administering the Wind Demonstration Program within its service area for the following program year.

2. On or before July 1, 2008, and on or before July 1 of each year thereafter, the Commission shall:

(a) Review the annual plan filed by each utility for compliance with the requirements established by regulation; and

(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

3. On or before November 1, 2008, and on or before November 1 of each year thereafter, each utility shall submit to the Committee the utility's recommendations as to which applications received by the utility should be approved for participation in the Program. The Committee shall review the applications to ensure that each applicant meets the qualifications and requirements to be eligible to participate in the Program.

4. Except as otherwise provided in section 26 of this act, the Committee may approve, from among the applications recommended by each utility, wind energy systems totaling:

(a) For the program year beginning July 1, 2008:

(1) 500 kilowatts of capacity for school property;

(2) 500 kilowatts of capacity for other public property;

(3) 700 kilowatts of capacity for private residential property and small business property; and

(4) 700 kilowatts of capacity for agricultural property.

(b) For the program year beginning July 1, 2009:

(1) An additional 250 kilowatts of capacity for school property;

(2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

(c) For the program year beginning July 1, 2010:

(1) An additional 250 kilowatts of capacity for school property;

(2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

Sec. 26. 1. Based on the applications submitted by each utility for a program year, the Committee shall:

(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Wind Demonstration Program and place those applicants on a list of participants; and

(b) Select applicants to be placed on a prioritized waiting list to become participants in the Program if any capacity within a category becomes available.

2. Not later than 30 days after the date on which the Committee selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the Committee on behalf of the applicant shall provide written notice of the selection to the applicant.

3. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the Committee may, in any combination it deems appropriate:

(a) Allow a utility to submit additional applications from applicants who want to participate in that category; or

(b) Reallocate any of the unused capacity in that category to any of the other categories.

4. At any time after submitting an application to participate in the Program to a utility, an applicant may energize his wind energy system if the wind energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who energizes his wind energy system under such circumstances remains eligible to participate in the Program, and the energizing of the wind energy system does not alter the applicant's status on the list of participants or the prioritized waiting list.

Sec. 27. 1. Except as otherwise provided in this section, if the Committee determines that a participant has not complied with the requirements for participation in the Wind Demonstration Program, the Committee shall, after notice and an opportunity for a hearing, withdraw the participant from the Program.

2. The Committee may, without notice or an opportunity for a hearing, withdraw from the Program:

(a) A participant in the category of private residential property and small business property or a participant in the category of agricultural property if the participant does not complete the installation of a wind energy system within 12 months after the date the participant receives written notice of his selection to participate in the Program.

(b) A participant in the category of school property or a participant in the category of other public property if the participant does not complete the installation of a wind energy system within 30 months after the date the participant receives written notice of his selection to participate in the Program.

3. A participant who is withdrawn from the Program pursuant to subsection 2 forfeits any incentives.

Sec. 28. 1. After a participant installs a wind energy system included in the Wind Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the actual or estimated kilowatt-hour production of the wind energy system.

2. All portfolio credits issued for a wind energy system installed pursuant to the Wind Demonstration Program must be assigned to and become the property of the utility administering the Program.

Sec. 29. If a wind energy system used by a participant in the Wind Demonstration Program meets the requirements of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 29.5. The Director of the Office of Energy shall adopt the regulations required by section 1 of this act on or before October 1, 2011.

Sec. 29.7. **1. The appointment of the additional members to the Task Force for Renewable Energy and Energy Conservation required by NRS 701.350, as amended by section 1.35 of this act, must be made as soon as practicable on or after passage and approval of this act, except that none of the additional members may begin serving a term sooner than July 1, 2007.**

2. The initial terms of the additional members appointed pursuant to paragraphs (i) and (j) of subsection 1 of NRS 701.350, as amended by section 1.35 of this act, expire on June 30, 2010.

3. The initial term of the additional member appointed pursuant to paragraph (k) of subsection 1 of NRS 701.350, as amended by section 1.35 of this act, expires on June 30, 2009.

Sec. 30. 1. This **section and sections 1.4 to 4, inclusive, of this act become effective upon passage and approval.**

2. Sections 1.35 and 29.7 of this act become effective:

(a) Upon passage and approval for the purposes of appointing additional members to the Task Force for Renewable Energy and Energy Conservation; and

(b) On July 1, 2007, for all other purposes.

3. Sections 1, 1.3, 4.5, 5 to 29, inclusive, and 29.5 of this act ~~[becomes]~~ **become** effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) On October 1, 2007, for all other purposes.

~~[2.]~~ **4.** Sections 5 to 29, inclusive, of this act expire by limitation on June 30, 2011.

Assemblyman Oceguera moved that the Assembly do not concur in the Senate Amendment No. 1013 to Assembly Bill No. 178.

Remarks by Assemblyman Oceguera.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 496.

The following Senate amendment was read:

Amendment No. 898.

AN ACT relating to workers' compensation; revising various duties of employers, insurers and claimants under the workers' compensation system; revising certain procedures for accepting and denying workers' compensation claims; revising certain provisions relating to occupational diseases; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the payment of workers' compensation if, during the course of employment, an employee is injured or killed by a workplace accident or occupational disease. (Chapters 616A-617 of NRS) Existing law authorizes an employer, after a workplace accident, to furnish the injured employee with the name of at least one physician or chiropractor qualified to examine the employee, but the employer may not require the employee to select any particular physician or chiropractor for the examination. The examining physician or chiropractor must report to the employer regarding the character and extent of the injury, but the employer may not require or permit the disclosure of any other information concerning the employee's physical condition. (NRS 616C.010)

Section 1 of this bill requires ~~[the]~~ **an** employer **whose insurer has contracted with certain managed care organizations or providers of health care services** to furnish the injured employee with the names of at least two physicians or chiropractors **who are** qualified to examine the employee ~~[.]~~ **and who are available pursuant to the contract, if there are two or more such physicians or chiropractors within 30 miles of the employee's place of employment. If there are not two such physicians or chiropractors within that area, the employer is required to furnish the name of at least one physician who is qualified to examine the employee and available pursuant to the contract. Further, section 1 imposes similar requirements upon employers whose insurers have not contracted with such managed care organizations or providers of health care services, except that the employers are required to furnish only the names of physicians and chiropractors who are qualified to conduct the examinations without regard as to whether they are available pursuant to any particular contract.** From among ~~[those names,]~~ **the names furnished by the employer,** the employee must select one of those physicians or chiropractors to conduct the examination, but the employee is not required to select a particular physician or chiropractor ~~[preferred by the employer]~~ from among the names furnished. Section 1 of this bill also clarifies that the employer shall not require or permit the disclosure of any

other information concerning the employee's physical condition except as required by NRS 616C.177, which permits an insurer to inquire about and request medical records concerning a preexisting medical condition that is reasonably related to the industrial injury of the injured employee.

Existing law requires an insurer to accept or deny claims involving industrial injuries and occupational diseases within a certain period. (NRS 616C.065, 617.356) Sections 1.5 and 3 of this bill require the insurer to mail its written determination regarding a claim to the claimant or the person acting on behalf of the claimant within the specified period and **, if the insurer denies the claim in whole or in part,** to obtain a certificate of mailing at the time the written determination **of the denial of the claim** is delivered to the United States Postal Service for mailing. The certificate of mailing serves as a receipt that shows the date on which the insurer mailed the written determination ~~[.]~~ **of the denial of a claim.**

Existing law establishes certain general requirements which are used to determine whether a disease is compensable as an occupational disease. (NRS 617.440) However, existing law also provides that for some specific diseases, such as certain cancers, lung diseases, heart diseases and contagious diseases, there is a legal presumption that those diseases are compensable under the workers' compensation system when contracted under certain specific circumstances, such as when contracted by firefighters, police officers and emergency medical attendants. (NRS 617.453, 617.455, 617.457, ~~[617.481,]~~ 617.485 **, 617.487**) Section 4 of this bill provides that the general requirements of NRS 617.440 do not apply to the specific provisions of existing law which create such legal presumptions.

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

Section 1. NRS 616C.010 is hereby amended to read as follows:

616C.010 1. Whenever any accident occurs to any employee, he shall forthwith report the accident and the injury resulting therefrom to his employer.

2. When an employer learns of an accident, whether or not it is reported, the employer may direct the employee to submit to, or the employee may request, an examination by a physician or chiropractor, in order to ascertain the character and extent of the injury and render medical attention which is required immediately. The employer ~~[may]~~ ***shall :***

(a) If the employer's insurer has entered into a contract with an organization for managed care or with providers of health care pursuant to NRS 616B.527, furnish the names, addresses and telephone numbers of ~~[one]~~ ~~*[two]*~~ **:**

(1) Two or more physicians or chiropractors ~~[,]~~ ***who are qualified to conduct the examination*** ~~*[.]*~~ ***and who are available pursuant to the terms of the contract, if there are two or more such physicians or chiropractors within 30 miles of the employee's place of employment; or***

(2) One or more physicians or chiropractors who are qualified to conduct the examination and who are available pursuant to the terms of the contract, if there are not two or more such physicians or chiropractors within 30 miles of the employee's place of employment.

(b) If the employer's insurer has not entered into a contract with an organization for managed care or with providers of health care pursuant to NRS 616B.527, furnish the names, addresses and telephone numbers of:

(1) Two or more physicians or chiropractors who are qualified to conduct the examination, if there are two or more such physicians or chiropractors within 30 miles of the employee's place of employment; or

(2) One or more physicians or chiropractors who are qualified to conduct the examination, if there are not two or more such physicians or chiropractors within 30 miles of the employee's place of employment.

3. From among the names furnished by the employer [,] pursuant to subsection 2, the employee shall select one of those physicians or chiropractors to conduct the examination, but [may] ***the employer shall*** not require the employee to select [any] ***a*** particular physician or chiropractor [.] ~~[preferred by the employer]~~ ***from among the names furnished by the employer.*** Thereupon, the examining physician or chiropractor shall report forthwith to the employer and to the insurer the character and extent of the injury. The employer shall not require the employee to disclose or permit the disclosure of any other information concerning his physical condition [.] ***except as required by NRS 616C.177.***

[3.] ***4.*** Further medical attention, except as otherwise provided in NRS 616C.265, must be authorized by the insurer.

[4.] ***5.*** This section does not prohibit an employer from requiring the employee to submit to an examination by a physician or chiropractor specified by the employer at any convenient time after medical attention which is required immediately has been completed.

Sec. 1.5. NRS 616C.065 is hereby amended to read as follows:

616C.065 1. Except as otherwise provided in NRS 616C.136, within 30 days after the insurer has been notified of an industrial accident, every insurer shall:

(a) [Commence payment of] ***Accept*** a claim for compensation [;] ***, notify the claimant or the person acting on behalf of the claimant that the claim has been accepted and commence payment of the claim;*** or

(b) Deny the claim and notify the claimant ***or the person acting on behalf of the claimant*** and ***the*** Administrator that the claim has been denied.

[➥]

2. Payments made by an insurer pursuant to this section are not an admission of liability for the claim or any portion of the claim.

[2.] ***3.*** Except as otherwise provided in this subsection, if an insurer unreasonably delays or refuses to pay the claim within 30 days after the insurer has been notified of an industrial accident, the insurer shall pay upon order of the Administrator an additional amount equal to three times the

amount specified in the order as refused or unreasonably delayed. This payment is for the benefit of the claimant and must be paid to him with the compensation assessed pursuant to chapters 616A to 617, inclusive, of NRS. The provisions of this section do not apply to the payment of a bill for accident benefits that is governed by the provisions of NRS 616C.136.

4. The insurer shall notify the claimant or the person acting on behalf of the claimant that a claim has been accepted or denied pursuant to subsection 1 by:

(a) Mailing its written determination to the claimant or the person acting on behalf of the claimant; and

(b) ~~*[Obtaining]*~~ ***If the claim has been denied, in whole or in part, obtaining a certificate of mailing.***

5. The failure of the insurer to obtain a certificate of mailing as required by paragraph (b) of subsection 4 shall be deemed to be a failure of the insurer to mail the written determination of the denial of a claim as required by this section.

6. Upon request, the insurer shall provide a copy of the certificate of mailing , if any, to the claimant or the person acting on behalf of the claimant.

7. For the purposes of this section, the insurer shall mail the written determination to:

(a) The mailing address of the claimant or the person acting on behalf of the claimant that is provided on the form prescribed by the Administrator for filing the claim; or

(b) Another mailing address if the claimant or the person acting on behalf of the claimant provides to the insurer written notice of another mailing address.

8. As used in this section, "certificate of mailing" means a receipt that provides evidence of the date on which the insurer presented its written determination to the United States Postal Service for mailing.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 617.356 is hereby amended to read as follows:

617.356 ***1.*** An insurer shall accept or deny ~~[responsibility]~~ ***a claim*** for compensation under this chapter ***and notify the claimant or the person acting on behalf of the claimant pursuant to NRS 617.344 that the claim has been accepted or denied*** within 30 working days after ~~[claims]~~ ***the forms for filing the claim*** for compensation are received pursuant to both NRS 617.344 and 617.352.

2. The insurer shall notify the claimant or the person acting on behalf of the claimant that a claim has been accepted or denied pursuant to subsection 1 by:

(a) Mailing its written determination to the claimant or the person acting on behalf of the claimant; and

(b) ~~*[Obtaining]*~~ ***If the claim has been denied, in whole or in part, obtaining a certificate of mailing.***

3. The failure of the insurer to obtain a certificate of mailing as required by paragraph (b) of subsection 2 shall be deemed to be a failure of the insurer to mail the written determination of the denial of a claim as required by this section.

4. Upon request, the insurer shall provide a copy of the certificate of mailing , if any, to the claimant or the person acting on behalf of the claimant.

5. For the purposes of this section, the insurer shall mail the written determination to:

(a) The mailing address of the claimant or the person acting on behalf of the claimant that is provided on the form prescribed by the Administrator for filing the claim; or

(b) Another mailing address if the claimant or the person acting on behalf of the claimant provides to the insurer written notice of another mailing address.

6. As used in this section, "certificate of mailing" means a receipt that provides evidence of the date on which the insurer presented its written determination to the United States Postal Service for mailing.

Sec. 4. NRS 617.440 is hereby amended to read as follows:

617.440 1. An occupational disease defined in this chapter shall be deemed to arise out of and in the course of the employment if:

(a) There is a direct causal connection between the conditions under which the work is performed and the occupational disease;

(b) It can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment;

(c) It can be fairly traced to the employment as the proximate cause; and

(d) It does not come from a hazard to which workmen would have been equally exposed outside of the employment.

2. The disease must be incidental to the character of the business and not independent of the relation of the employer and employee.

3. The disease need not have been foreseen or expected, but after its contraction must appear to have had its origin in a risk connected with the employment, and to have flowed from that source as a natural consequence.

4. In cases of disability resulting from radium poisoning or exposure to radioactive properties or substances, or to roentgen rays (X rays) or ionizing radiation, the poisoning or illness resulting in disability must have been contracted in the State of Nevada.

5. The requirements set forth in this section do not apply to claims filed pursuant to NRS 617.453, 617.455, 617.457, ~~[617.481 or]~~ 617.485 ~~[.]~~ or 617.487.

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

Assemblyman Oceguera moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 496.

Remarks by Assemblyman Oceguera.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 526.

The following Senate amendment was read:

Amendment No. 702.

AN ACT relating to information technology; revising provisions governing the regulation of community antenna television, cable television and other video service; establishing a new regulatory structure for video service providers; requiring the Secretary of State to perform certain duties under the new regulatory structure; limiting the regulatory powers of local governments regarding video service providers; providing fees; requiring providers of Internet service to offer **, under certain circumstances,** products or services which enable subscribers to regulate and monitor a child's use of the Internet; providing remedies and penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill enacts various provisions relating to community antenna television, cable television, video service, Internet service and other information technology.

Under existing law, a local government has the authority to grant local franchises for the operation of a community antenna or cable television system within its jurisdiction. Because each local government has independent authority to grant its own franchises, a cable operator that wants to operate in multiple jurisdictions must negotiate a separate local franchise with each local government. (Chapter 711 of NRS)

To promote competition in the cable industry, the federal Cable Act prohibits a local government from granting an exclusive franchise or unreasonably refusing to grant competitive franchises. The federal Cable Act also prohibits a local government from imposing a franchise fee that exceeds 5 percent of a cable operator's gross revenue. (47 U.S.C. §§ 541, 542)

This bill repeals the existing statutory scheme of regulating video service through local franchises and replaces it with a statutory scheme that is intended to promote more competition in the market for such service. This bill applies to community antenna television companies, cable operators and other video service providers. However, this bill allows an existing franchise holder to continue operating under its local franchise until that franchise expires ~~[.]~~ **, and this bill also allows a local government in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties) to renew or extend the term of a local franchise.**

Under this bill, a video service provider must obtain a certificate of authority from the Secretary of State, which acts as a state-issued franchise to provide video service within the service areas designated in the certificate. This bill establishes various standards and practices for video service

providers, including requirements for providing local governments with community access channels for public, educational and governmental programming.

This bill preempts most local regulation of video service providers. However, this bill allows a local government to manage the activities of video service providers within any public right-of-way or highway, including inspecting any construction or repair work. This bill also allows a local government to impose a franchise fee that does not exceed 5 percent of a video service provider's gross revenue.

Finally, this bill requires a provider of Internet service **, under certain circumstances,** to make available to subscribers in this State products or services which enable the subscribers to block, restrict and monitor a child's Internet activities. This bill authorizes the provider to charge a fee to those subscribers who elect to use the products or services. A provider of Internet service that fails to comply with the requirements commits a deceptive trade practice and is subject to ~~[civil and]~~ **the procedures for** administrative **enforcement and the** remedies and penalties ~~[.]~~ **under the Deceptive Trade Practice Act. (NRS 598.0903-598.0999)**

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

Section 1. NRS 704.030 is hereby amended to read as follows:

704.030 "Public utility" or "utility" does not include:

1. Persons engaged in the production and sale of natural gas, other than sales to the public, or engaged in the transmission of natural gas other than as a common carrier transmission or distribution line or system.

2. Persons engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this State if:

(a) They serve 25 persons or less; and

(b) Their gross sales for water or services for the disposal of sewage, or both, amounted to $5,000 or less during the immediately preceding 12 months.

3. Persons not otherwise engaged in the business of furnishing, producing or selling water or services for the disposal of sewage, or both, but who sell or furnish water or services for the disposal of sewage, or both, as an accommodation in an area where water or services for the disposal of sewage, or both, are not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water or services for the disposal of sewage, or both, for compensation, to persons within the political subdivision.

4. Persons who are engaged in the production and sale of energy, including electricity, to public utilities, cities, counties or other entities which are reselling the energy to the public.

5. Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.

6. Persons who are engaged in the sale or use of special fuel as defined in NRS 366.060.

7. Persons who provide water from water storage, transmission and treatment facilities if those facilities are for the storage, transmission or treatment of water from mining operations.

8. Persons who are video service providers, as defined in section 27 of this act, except for those operations of the video service provider which consist of providing a telecommunication service to the public, in which case the video service provider is a public utility only with regard to those operations of the video service provider which consist of providing a telecommunication service to the public.

Sec. 2. Chapter 711 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 60, inclusive, of this act.

Sec. 3. ***"Agreement" means any agreement or contract of any kind.***

Sec. 4. ***"Cable operator" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.***

Sec. 5. ***"Cable service" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.***

Sec. 6. ***"Cable system" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.***

Sec. 7. ***"Certificate of authority" or "certificate" means a certificate issued by the Secretary of State pursuant to this chapter which grants the holder of the certificate a state-issued franchise to provide video service and construct and operate a video service network within the service areas designated in the certificate.***

Sec. 8. ***"Commercial mobile service provider" means a person who provides commercial mobile service, as defined in 47 U.S.C. § 332(d), as that section existed on January 1, 2007.***

Sec. 9. ***"Franchise" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.***

Sec. 10. ***"Franchise fee" means a franchise fee imposed by a local government on a video service provider for the privilege of providing video service.***

Sec. 11. ***1. "Gross revenue" means:***

(a) Any revenue a video service provider receives from its subscribers for providing video service to those subscribers, as determined in accordance with generally accepted accounting principles, except for revenue excluded pursuant to subsection 3; and

(b) Any other consideration a video service provider receives from its subscribers for providing video service when it is received in a transaction that would evade imposition of a franchise fee if such consideration is not included in revenue, except for revenue excluded pursuant to subsection 3.

2. The term includes, without limitation:

(a) Recurring monthly charges;

(b) Event-based charges, including, without limitation, charges for pay per view and video on demand;

(c) Charges for the rental of set-top boxes and other equipment;

(d) Service charges, including, without limitation, charges for activation, installation, repair and maintenance;

(e) Administrative charges, including, without limitation, charges for service orders and service termination; and

(f) The amount of any revenue received by a video service provider for providing video service when such service is a component of a bundle of services or products sold for a single price, but only to the extent the revenue received by the video service provider for the bundle of services or products is proportionately allocated among each of the components.

3. The term does not include:

(a) Revenue not actually received, regardless of when it is billed.

(b) Refunds, rebates or discounts made to subscribers.

(c) Revenue from providing service other than video service, including, without limitation, revenue from providing:

(1) Telecommunication service; or

(2) Information service that is not video service.

(d) Any fee imposed on the video service provider that is passed through to and paid by subscribers, including, without limitation, a franchise fee.

(e) Revenue from the sale of video service to any person who purchases the video service for resale and who, upon resale, is required to pay a franchise fee pursuant to this chapter or the terms of a local franchise.

(f) Any tax of general applicability.

(g) The fair market value of free or reduced-cost video service provided without set-off or exchange to any person who is entitled or permitted to receive such service pursuant to this chapter or federal law.

(h) Late payment fees collected from subscribers.

Sec. 12. ***"Holder of a certificate" or "holder" means a video service provider that has been issued a certificate of authority pursuant to this chapter.***

Sec. 13. ***"Incumbent cable operator" means any cable operator, community antenna television company or other video service provider that, on the effective date of this act, is providing video service in this State pursuant to a local franchise.***

Sec. 14. ***"Information service" has the meaning ascribed to it in 47 U.S.C. § 153(20), as that section existed on January 1, 2007.***

Sec. 15. ***"Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § 230(f)(2), as that section existed on January 1, 2007.***

Sec. 16. ***"Jurisdiction of a local government" means:***

1. In the case of a city, the corporate limits of the city.

2. In the case of a county, the unincorporated area of the county.

Sec. 17. ***1. "Local franchise" means any franchise, agreement, permit, license or similar authorization, regardless of its name, which:***

[1.] (a) Permits a person to construct or operate a cable system, community antenna television system or video service network within the jurisdiction of a local government;

[2.] (b) Was issued, granted, approved or renewed by the governing body of the local government before the effective date of this act pursuant to the authority of any federal, state or local law in effect at the time of the issuance, grant, approval or renewal; and

[3.] (c) On the effective date of this act, is legally effective and unexpired.

2. The term includes, without limitation, an unexpired local franchise that a local government in a county whose population is less than 100,000 renews or extends the term of pursuant to sections 32 and 32.5 of this act.

Sec. 18. ***"Local law" means any charter, code, ordinance, regulation or other law of a local government.***

Sec. 19. ***"Multichannel video programming distributor" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.***

Sec. 20. ***"Service area" means the geographical territory in this State within which a video service provider is authorized to provide video service [under] pursuant to a certificate of authority [.] or local franchise.***

Sec. 21. ***1. "Subscriber" means any person in this State who purchases video service.***

2. The term does not include any person who purchases video service for resale and who, upon resale, is required to pay a franchise fee pursuant to this chapter or the terms of a local franchise.

Sec. 22. ***"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. 23. ***"Telecommunication provider" means any person required to obtain from the Public Utilities Commission of Nevada a certificate of public convenience and necessity pursuant to NRS 704.330 to provide telecommunication service.***

Sec. 24. ***"Telecommunication 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. 25. ***1. "Video service" means the provision of multichannel video programming generally considered comparable to video programming delivered by a television broadcast station, cable service or other digital television service, whether provided as part of a tier, on-demand or on a per-channel basis, without regard to the technology used to***

deliver the video service, including, without limitation, Internet protocol technology or any successor technology.

2. The term includes, without limitation:

(a) Cable service; and

(b) Video service delivered by a community antenna television system.

3. The term does not include:

(a) Any video content provided solely as part of, and through, a service which enables users to access content, information, electronic mail or other services that are offered via the public Internet.

(b) Direct broadcast satellite service.

(c) Any wireless multichannel video programming provided by a commercial mobile service provider.

Sec. 26. ***1. "Video service network" means a wireline facility, or any component thereof, which is:***

(a) Located in this State;

(b) Constructed in whole or in part in, on, under or over any public right-of-way or highway; and

(c) Used to provide video service.

2. The term includes, without limitation:

(a) A cable system; and

(b) A community antenna television system.

Sec. 27. ***1. "Video service provider" or "provider" means any person that provides or offers to provide video service over a video service network to subscribers in this State.***

2. The term includes, without limitation:

(a) ~~[A]~~ An incumbent cable operator or other cable operator;

(b) A community antenna television company; and

(c) A multichannel video programming distributor.

Sec. 28. ***This chapter occupies the entire field of franchising and regulation of video service and, except as otherwise provided in sections 45 and 46 of this act, preempts any local law or agreement with a local government that:***

1. Requires a person to obtain or hold from a local government any franchise, permit, license or similar authorization, regardless of its name, to provide video service or to construct or operate a video service network, unless the person is an incumbent cable operator which holds an unexpired local franchise and which has elected pursuant to ~~[section 32]~~ sections 32 and 32.5 of this act to continue to operate within its service area pursuant to the local franchise . ~~[until the date on which the local franchise expires.]~~

2. Regulates the provision of video service or the construction or operation of a video service network if such regulation conflicts or is otherwise inconsistent with the provisions of this chapter or the purposes and objectives of this chapter.

3. Requires a video service provider to pay any fee to a local government if the payment of such a fee conflicts or is otherwise inconsistent with the provisions of this chapter or the purposes and objectives of this chapter.

Sec. 29. ***1. For the purpose of bringing about fair and reasonable competition for video service, the Secretary of State has the exclusive authority to issue a certificate of authority to a person to provide video service and construct and operate a video service network in any service area in this State.***

2. The Secretary of State:

(a) Shall carry out the provisions of this chapter; and

(b) May adopt regulations necessary for the issuance, modification and termination of a certificate of authority, including, without limitation, prescribing any forms related to the application process.

3. On or after the effective date of this act, a local government does not have the authority to:

(a) Issue, grant, approve or renew any franchise, agreement, permit, license or similar authorization, regardless of its name, for the privilege of:

(1) Providing video service within the jurisdiction of the local government; or

(2) Except as otherwise provided in sections 45 and 46 of this act, constructing or operating a video service network within the jurisdiction of the local government ~~[;]~~ **,**

➥ *except that a local government in a county whose population is less than 100,000 may renew or extend the term of an unexpired local franchise of an incumbent cable operator which has elected pursuant to sections 32 and 32.5 of this act to continue to operate within its service area pursuant to the local franchise;*

(b) Impose any build-out requirements, investment requirements or other requirements relating to infrastructure, facilities or deployment of equipment for the privilege of providing video service or constructing or operating a video service network within the jurisdiction of the local government; or

(c) Except as otherwise provided in sections 45 and 46 of this act, require the payment of any application, document, franchise, service or other fee, tax, charge or assessment for the privilege of providing video service or constructing or operating a video service network within the jurisdiction of the local government.

Sec. 29.5. ~~*[In carrying out the provisions of this chapter, the Secretary of State shall charge and collect:*~~

~~*1. A filing fee, in an amount not to exceed $1,000, for accepting any application or notice pursuant to the provisions of this chapter; and*~~

~~*2. Except as otherwise provided in this subsection, a certification fee, in the amount of $25,000, for issuing an original certificate of authority to a*~~

~~*person who does not hold such a certificate pursuant to the provisions of this chapter. The Secretary of State:*~~

~~*(a) May charge and collect the certification fee only once from each such person; and*~~

~~*(b) May not charge and collect the certification fee from a local government that is authorized pursuant to NRS 711.175 to sell video service to the general public, or any entity or agency that is directly or indirectly controlled by the local government, if it provides video service or constructs or operates a video service network exclusively within the territorial boundaries of the local government.]*~~

1. In carrying out the provisions of this chapter, the Secretary of State shall charge and collect the fees set forth in this section.

2. Except as otherwise provided in subsection 3, the filing fee for accepting any application or notice pursuant to the provisions of this chapter is $1,000.

3. The filing fee for accepting an original application for a certificate of authority pursuant to sections 33 and 34 of this act:

(a) Is $250 for a service area located entirely within the territorial boundaries of a county whose population is less than 50,000.

(b) Is $500 for a service area located in whole or in part within the territorial boundaries of a county whose population is 50,000 or more but less than 100,000, unless the provisions of paragraph (c) apply.

(c) Is $1,000 for a service area located in whole or in part within a county whose population is 100,000 or more.

4. A person may elect to apply for a certificate of authority that permits, but does not require, the person to provide video service within one or more service areas located anywhere in this State as designated in the application and affidavit filed by the person pursuant to section 33 of this act. If a person applies for such a certificate of authority, the certification fee for issuing the certificate of authority to the person pursuant to sections 33 and 34 of this act is $25,000. The Secretary of State may charge and collect the certification fee pursuant to this subsection only once from each such person.

5. If a person elects not to apply for a certificate of authority in accordance with subsection 4, the certification fee for issuing a certificate of authority to the person pursuant to sections 33 and 34 of this act or for issuing an amended certificate of authority to the person pursuant to section 35 of this act:

(a) Is $250 for a service area located entirely within the territorial boundaries of a town, township or city whose population is less than 1,000, regardless of the population of the county.

(b) Is $2,500 for a service area located entirely within the territorial boundaries of a town, township or city whose population is 1,000 or more but less than 50,000, regardless of the population of the county.

(c) Is $2,500 for a service area located entirely within the territorial boundaries of a county whose population is less than 50,000, unless the provisions of paragraph (a) or (b) apply.

(d) Is $15,000 for a service area located in whole or in part within the territorial boundaries of a county whose population is 50,000 or more but less than 100,000, unless the provisions of paragraph (a), (b) or (e) apply.

(e) Is $25,000 for a service area located in whole or in part within the territorial boundaries of a county whose population is 100,000 or more, unless the provisions of paragraph (a) or (b) apply.

6. The Secretary of State shall charge and collect the fees set forth in this section based on:

(a) The information provided in the application and affidavit filed by the person pursuant to paragraph (a) of subsection 2 of section 33 of this act; and

(b) The estimated population of each town, township, city and county in this State as set forth in the most recent annual report issued by the Department of Taxation pursuant to NRS 360.283.

7. The fees imposed by this section may not be passed through to and collected from subscribers of video service.

Sec. 30. ***The provisions of this chapter must not be interpreted to:***

1. Authorize the Secretary of State to exercise oversight of video service providers except as provided in this chapter.

2. Prevent a telecommunication provider from exercising any rights or authority that the provider has as a public utility under federal or state law.

Sec. 31. Except as otherwise provided in this chapter, a person shall not act as a video service provider or construct or operate a video service network in any service area unless the person has obtained a certificate of authority for that service area.

Sec. 32. 1. If, on the effective date of this act, an incumbent cable operator is providing video service within a service area pursuant to a local franchise, the incumbent cable operator may elect to:

(a) Continue to operate within that service area pursuant to the local franchise ~~*[until the date on which the local franchise expires;]*~~ ***in accordance with section 32.5 of this act; or***

(b) Terminate the local franchise within that service area by applying for and obtaining a certificate of authority pursuant to ~~*[subsection 3.*~~

~~*2. If an incumbent cable operator elects to continue to operate within a service area pursuant to a local franchise, the incumbent cable operator:*~~

~~*(a) Must comply with the local franchise and all applicable provisions of this chapter until the date on which the local franchise expires; and*~~

~~*(b) To operate within that service area on or after the date on which the local franchise expires, must apply for and obtain a certificate of authority in the same manner as any other video service provider. If the incumbent cable operator is issued a certificate of authority for that service area while*~~

~~*operating pursuant to the local franchise, the certificate does not become effective until the date on which the local franchise expires.*~~

~~*3.]*~~ ***this section.***

2. ***To elect to terminate a local franchise within a service area, an incumbent cable operator must, not later than 6 months after the effective date of this act, apply for a certificate of authority for that service area in the same manner as any other video service provider. If the incumbent cable operator makes such an election and obtains a certificate of authority for that service area:***

(a) The local franchise for that service area is deemed to be terminated by operation of law on the date on which the Secretary of State issues the certificate of authority;

(b) Not later than 3 business days after the date on which the Secretary of State issues the certificate of authority, the incumbent cable operator shall file with the clerk of the local government which granted the franchise a written declaration that the incumbent cable operator has obtained a certificate of authority and that the local franchise for that service area has been terminated by operation of law; and

(c) The incumbent cable operator shall operate within that service area thereafter subject only to the same requirements that apply to any other holder of a certificate.

Sec. 32.5. ***1. Except as otherwise provided in subsection 2, if an incumbent cable operator elects pursuant to section 32 of this act to continue to operate within a service area pursuant to a local franchise:***

(a) The incumbent cable operator must comply with the local franchise and all applicable provisions of this chapter while the local franchise is in effect for that service area;

(b) The local franchise is not effective for that service area on or after the date on which the local franchise expires; and

(c) The local government may not renew or extend the term of the local franchise for that service area.

➥ To operate within that service area on or after the date on which the local franchise expires, the incumbent cable operator must apply for and obtain a certificate of authority in the same manner as any other video service provider. If the incumbent cable operator is issued a certificate of authority for that service area while operating pursuant to the local franchise, the certificate does not become effective until the date on which the local franchise expires.

2. If an incumbent cable operator elects pursuant to section 32 of this act to continue to operate within a service area pursuant to a local franchise and the service area is located entirely within the territorial boundaries of a county whose population is less than 100,000:

(a) The incumbent cable operator must comply with the local franchise and all applicable provisions of this chapter while the local franchise is in effect for that service area; and

(b) The local government may renew or extend the term of the local franchise for that service area, provided that the terms and conditions of the renewal or extension do not conflict with or are not otherwise inconsistent with the provisions of this chapter or the purposes and objectives of this chapter.

➥ To operate within that service area on or after the date on which the local franchise expires without renewal or extension, the incumbent cable operator must apply for and obtain a certificate of authority in the same manner as any other video service provider. If the incumbent cable operator is issued a certificate of authority for that service area while operating pursuant to the local franchise, the certificate does not become effective until the date on which the local franchise expires without renewal or extension.

Sec. 33. ***1. To obtain a certificate of authority, a person must:***

(a) File with the Secretary of State an application and affidavit which are signed by one of the principal executive officers or general partners of the applicant and which comply with the provisions of this section; and

(b) Pay ~~[the fees]~~ any fee required by section 29.5 of this act.

2. The application and affidavit must be in the form required by the Secretary of State and must contain only the following:

(a) A description of each service area designated by the applicant in which the applicant intends to provide video service and a map of each such service area that shows the territorial boundaries of each local government located, in whole or in part, within the service area.

(b) The location of the principal place of business of the applicant and the names of the principal executive officers or general partners of the applicant.

(c) Certifications that the applicant:

(1) Agrees to comply with all applicable federal and state laws and regulations;

(2) Agrees to comply with all generally applicable, nondiscriminatory local laws regarding the use and occupation of any public right-of-way or highway in the construction, operation, maintenance and repair of a video service network, including, without limitation, any local laws enacted pursuant to the police powers of the local government in which the video service network is located; and

(3) Has filed or will timely file with the Federal Communications Commission all forms required by that agency before offering video service.

3. If the Secretary of State determines that the application and affidavit are incomplete or otherwise deficient, the Secretary of State shall provide written notice to the applicant not later than 15 days after the date on which the application and affidavit are filed. The written notice must:

(a) Explain the incompleteness or deficiency in detail; and

(b) Identify with specificity the information or other items that are necessary to complete the application and affidavit properly.

4. The applicant shall provide a copy of the application and affidavit to the governing body of each local government located, in whole or in part, within each service area designated in the application. The applicant shall provide such a copy:

(a) Not later than 3 business days after the date on which the application and affidavit are first filed with the Secretary of State; and

(b) If a revised application and affidavit are filed, not later than 3 business days after the date on which the revised application and affidavit are filed with the Secretary of State.

5. The copy of the application and affidavit provided by the applicant to a governing body is for informational purposes only, and the governing body may not:

(a) Vote on or take other official action regarding the application and affidavit; or

(b) Require the applicant to obtain the approval of the governing body regarding the application and affidavit.

Sec. 34. ***1. Not later than 20 days after the date on which an applicant files a completed application and affidavit pursuant to section 33 of this act and pays*** ~~*[the fees]*~~ ***any fee required by section 29.5 of this act, the Secretary of State shall issue a certificate of authority to the applicant.***

2. The certificate of authority issued by the Secretary of State is a state-issued franchise granting the holder of the certificate with the authority to:

(a) Provide video service in each service area designated in the application and affidavit filed with the Secretary of State; and

(b) Construct and operate a video service network in compliance with the provisions of this chapter and all local laws that are not in conflict or otherwise inconsistent with the provisions of this chapter or the purposes and objectives of this chapter.

3. The Secretary of State may not condition or limit a certificate of authority by imposing on the holder of the certificate any obligations or requirements that are not authorized by the provisions of this chapter, including, without limitation:

(a) Any build-out requirements, investment requirements or other requirements relating to infrastructure, facilities or deployment of equipment; or

(b) Any requirements to pay any application, document, franchise, service or other fee, tax, charge or assessment that is not authorized by the provisions of this chapter.

Sec. 35. ***1. If the holder of a certificate wants to add one or more new service areas to the certificate, the holder must*** ~~*[file]*~~ ***:***

(a) File with the Secretary of State an application for an amendment to the certificate to add the new service areas ~~*[.]*~~ ***; and***

(b) Pay any fee required by section 29.5 of this act.

2. The application for an amendment to the certificate must contain a description of each new service area designated by the holder and a map of each new service area that shows the territorial boundaries of each local government located, in whole or in part, within the new service area.

3. The application for an amendment to the certificate is subject to the same procedures, requirements and time periods as an application for the issuance of a certificate pursuant to sections 33 and 34 of this act . [, except that the holder is not required to pay the certification fee required by section 29.5 of this act.]

Sec. 36. ***1. If the holder of a certificate wants to modify the boundaries of an existing service area authorized under the certificate, the holder must file with the Secretary of State written notice of the modification [.] and pay any fee required by section 29.5 of this act.***

2. The holder may make the modification on the date on which it files the written notice with the Secretary of State.

Sec. 37. ***1. If the holder of a certificate wants to terminate service to an existing service area authorized under the certificate, the holder must file with the Secretary of State written notice of the termination [.] and pay any fee required by section 29.5 of this act.***

2. The holder may make the termination on the date on which it files the written notice with the Secretary of State.

Sec. 38. 1. Except as otherwise provided in this section, a certificate of authority is fully transferable to any successor-in-interest of the holder of the certificate whether the transfer to the successor-in-interest arises through merger, sale, assignment, restructuring, change of control or any other type of transaction.

2. The holder shall file with the Secretary of State written notice of the transfer of the certificate to the successor-in-interest and pay any fee required by section 29.5 of this act not later than 10 days after the date on which the transfer is completed.

3. Before the holder may transfer its certificate to the successor-in-interest, the successor-in-interest must agree that any collective bargaining agreement entered into by the holder shall continue to be honored, paid or performed by the successor-in-interest to the same extent as would be required if the holder continued to operate under its certificate unless such continued application of the collective bargaining agreement to the successor-in-interest is prohibited or limited by the terms of the agreement or by federal or state law. Any transfer of a certificate of authority that violates the provisions of this subsection is void and unenforceable and is not valid for any purpose.

Sec. 39. ***1. Not later than 24 months after the date on which the Secretary of State issues a certificate of authority pursuant to sections 33 and 34 of this act or an amended certificate of authority pursuant to section 35 of this act, the holder of the certificate must have the capability to offer and provide video service to at least one subscriber who resides***

within the territorial boundaries of each service area authorized by the certificate or the amended certificate.

2. If a holder fails to comply with the provisions of subsection 1, the holder's certificate of authority shall be deemed to be revoked by operation of law without the need for any notice, hearing or action by the Secretary of State.

Sec. 40. ***A holder of a certificate shall provide video service in accordance with the certifications made by the holder in each application and affidavit that the holder files with the Secretary of State pursuant to section 33 or 35 of this act.***

Sec. 40.5. ***1. If a video service provider that is not an incumbent cable operator within the jurisdiction of a local government intends to construct facilities within the jurisdiction of the local government pursuant to a certificate of authority, the video service provider shall, until it has constructed all the facilities intended for the jurisdiction of the local government, prepare and submit to the local government a semiannual report which describes the number of service locations within the jurisdiction of the local government that are capable of receiving video service from the video service provider.***

2. The video service provider shall submit the report to the local government not later than 10 business days after the last day of the second and fourth calendar quarters of each year.

3. The information contained in a report that is submitted to a local government pursuant to this section:

(a) Is confidential proprietary information of the video service provider;

(b) Is not a public record; and

(c) Must not be disclosed to any person who is not an officer or employee of the local government unless the video service provider consents to the disclosure or the disclosure is made pursuant to subsection 4.

4. Upon request from the Director of the Legislative Counsel Bureau, a local government shall disclose the information contained in a report that is submitted to the local government pursuant to this section to the Director for confidential use by the Legislature and the Legislative Counsel Bureau. The information that is disclosed to the Director:

(a) Is confidential proprietary information of the video service provider;

(b) Is not a public record; and

(c) Must not be disclosed to any person who is not an officer or employee of the Legislature or the Legislative Counsel Bureau unless the video service provider consents to the disclosure.

Sec. 41. ***1. A video service provider shall activate and offer video service in a nondiscriminatory manner within each service area and shall not deny access to video service to any group of potential residential subscribers within a particular part of a service area because of the income profile of the persons who reside in that particular part of the service area.***

2. In providing video service, a video service provider shall comply with:

(a) The provisions of 47 U.S.C. § 551, as that section existed on January 1, 2007.

(b) The provisions of the National Electrical Safety Code, as adopted and as may be amended by the Institute of Electrical and Electronics Engineers, Inc., with regard to the video service provider's construction practices and installation of equipment.

(c) Any technical standards governing the design, construction and operation of a video service network required by federal law.

(d) The provisions of 47 C.F.R. Part 11, as adopted and as may be amended by the Federal Communications Commission, to the extent those provisions require a video service provider to participate in the Emergency Alert System.

Sec. 42. ***1. A video service provider:***

(a) Shall comply with the provisions of 47 C.F.R. §§ 76.309, 76.1601 to 76.1604, inclusive, and 76.1618 to 76.1622, inclusive, as adopted and as may be amended by the Federal Communications Commission, with regard to the standards governing the quality of video service and customer service; and

(b) May not be required to comply with more stringent or different customer service obligations than those set forth in paragraph (a).

2. To facilitate the resolution of complaints regarding video service made by subscribers ~~*[, a]*~~ ***:***

(a) A video service provider shall establish and maintain a customer service department and provide each subscriber with instructions for:

~~*[(a)]*~~ ***(1) Contacting the customer service department if the subscriber has a complaint regarding video service; and***

~~*[(b)]*~~ ***(2) Contacting the local government if the video service provider does not resolve the complaint to the satisfaction of the subscriber.***

(b) Each local government which is located in a county whose population is 25,000 or more and which collects a franchise fee pursuant to section 46 of this act shall establish a process to:

(1) Make available to the public a list of video service providers authorized to provide video service within the jurisdiction of the local government;

(2) Respond to inquiries from subscribers and disseminate information to those subscribers regarding the standards governing the quality of video service and customer service prescribed by subsection 1 and the procedures available to subscribers to resolve complaints with such video service providers;

(3) Coordinate the resolution of subscriber complaints with the customer service departments of such video service providers;

(4) Facilitate access by subscribers to procedures to seek corrective action or other redress from such video service providers for alleged

violations of the customer service standards prescribed by subsection 1; and

(5) Maintain a record of the number and general subject matter of subscriber complaints against each such video service provider. The record must contain a separate listing for each such video provider and must be made available for public inspection.

3. Before a local government may take the action permitted by subsection 4 [or 5] against a video service provider regarding a complaint from a subscriber:

(a) The subscriber must provide notice of the complaint to the video service provider by contacting the customer service department of the video service provider; and

(b) The video service provider must be given a period of not less than [5] 10 business days after the date on which it receives the notice from the subscriber to resolve the complaint to the satisfaction of the subscriber.

4. If [a subscriber files a written complaint regarding video service with a local government, the local government may impose an administrative fine against the video service provider if, after notice and an opportunity for a hearing before a hearing officer, it is proven by substantial evidence that the video service provider has, with regard to that subscriber, violated the customer service obligations that apply to the video service provider pursuant to this section. The amount of the administrative fine:

(a) For the first violation involving that subscriber in any period of 12 consecutive months, must not exceed $250.

(b) For the second violation involving that subscriber in any period of 12 consecutive months, must not exceed $500.

(c) For the third and any subsequent violation involving that subscriber in any period of 12 consecutive months, must not exceed $750.

5. If a video service provider fails to pay a fine imposed by a local government pursuant to this section or if] ***a local government has reasonable cause to believe that a video service provider has committed persistent or repeated violations of the customer service obligations that apply to the video service provider pursuant to this section, the local government may file a written complaint with the Bureau of Consumer Protection in the Office of the Attorney General pursuant to section 60 of this act.***

Sec. 43. ***1. A video service provider may provide telecommunication service pursuant to chapter 704 of NRS and the regulations approved by the Public Utilities Commission of Nevada for telecommunication providers.***

2. A video service provider shall obtain a certificate of public convenience and necessity pursuant to NRS 704.330 before providing any telecommunication service that is subject to regulation by the Public Utilities Commission of Nevada.

3. A local government shall not require a video service provider to obtain a franchise from the local government to provide:

(a) Telecommunication service; or

(b) Interactive computer service,

➥ if the video service provider uses its own video service network within the jurisdiction of the local government to provide such service.

Sec. 44. ~~*[1. On or after the effective date of this act, a purveyor of video service shall not enter into any agreement or other arrangement with any person that directly or indirectly:*~~

~~*(a) Excludes another purveyor of video service from any private easement or right-of-way for the installation on real property of facilities or equipment used to provide video service;*~~

~~*(b) Restricts or limits access to real property on different terms and conditions among different purveyors of video service; or*~~

~~*(c) Grants exclusive rights to the purveyor of video service to:*~~

~~*(1) Install its facilities or equipment on real property during the construction or developmental phase of the real property; or*~~

~~*(2) Provide video service to the occupants of the real property.*~~

~~*2. This section does not prohibit a purveyor of video service from participating in an agreement for exclusive marketing of video programming and other programming service.*~~

~~*3. As used in this section, "purveyor of video service" means any person who furnishes video service to subscribers in this State using any form of technology or type of facilities, regardless of whether the person:*~~

~~*(a) Is a video service provider subject to the provisions of this chapter; or*~~

~~*(b) Provides video service over a video service network that is constructed in whole or in part in, on, under or over any public right-of-way or highway.]*~~ **(Deleted by amendment.)**

Sec. 45. ***1. A local government shall not require a video service provider to place its facilities in ducts or conduits or on poles owned or leased by the local government.***

2. A local government shall manage the use of any public right-of-way or highway by video service providers in a manner that:

(a) Is consistent with federal and state law and the lawful police powers of the local government; and

(b) Is competitively neutral and does not:

(1) Discriminate among video service providers; or

(2) Discriminate between video service providers and any other users of the public right-of-way or highway for the construction and operation of facilities.

3. In managing any public right-of-way or highway, a local government may:

(a) Require a video service provider that is constructing, installing, working within, maintaining or repairing facilities in, on, under or over

any public right-of-way or highway to obtain a construction, encroachment or occupancy permit or license for such work; and

(b) Inspect the construction, installation, maintenance or repair work performed on such facilities.

4. If a video service provider makes a request for such a permit or license, the local government shall act upon the request not later than 10 business days after the date on which the request is made.

5. A local government may charge a video service provider a fee to issue such a permit or license or to perform any inspection authorized by this section. The amount of any fee charged by a local government pursuant to this subsection may not exceed the actual costs incurred by the local government in administering the process of issuing such permits or licenses and performing such inspections.

6. If there is a situation necessitating emergency response work or repair in, on, under or over any public right-of-way or highway, a video service provider may begin that work or repair without prior approval from a local government if the provider notifies the local government as promptly as reasonably possible after learning of the need for that work or repair.

Sec. 46. ***1. For the privilege of providing video service through a video service network that occupies or uses, in whole or in part, any public right-of-way or highway within the jurisdiction of a local government, the local government may require a video service provider to pay a franchise fee to the local government based on the gross revenue that the provider receives from its subscribers within the jurisdiction of the local government.***

2. To require the payment of the franchise fee, the governing body of the local government must adopt a nondiscriminatory ordinance or resolution that imposes the franchise fee equally and uniformly on all video service providers operating within the jurisdiction of the local government.

3. The local government shall not require a video service provider to pay a franchise fee for any year in a total amount that exceeds 5 percent of the gross revenue that the provider received during that year from its subscribers within the jurisdiction of the local government.

4. The entire amount of the franchise fee must be paid by a video service provider directly to the local government in legal tender of the United States or in a check, draft or note that is payable in legal tender of the United States.

5. A video service provider may:

(a) Pass the franchise fee through to and collect the franchise fee from its subscribers within the jurisdiction of the local government based on the gross revenue received from each such subscriber; and

(b) Designate the amount of the franchise fee collected from each subscriber as a separate line item on the subscriber's bill.

6. Except as otherwise provided in subsection 7, the franchise fee authorized by this section:

(a) Is the only fee, tax, assessment or other charge that a local government may impose on a video service provider for the privilege of providing video service or constructing or operating a video service network within the jurisdiction of the local government; and

(b) Is in lieu of any other fee, tax, assessment or charge that may be imposed by a local government on a video service provider for its occupation or use of any public right-of-way or highway.

7. This section does not restrict the right of a local government to impose on a video service provider:

(a) The fees authorized by subsection 5 of section 45 of this act; and

(b) Any generally applicable and nondiscriminatory fees, ad valorem taxes, sales taxes or other taxes that are lawfully imposed on other businesses within the jurisdiction of the local government.

Sec. 47. ***1. Not more than once every 3 years, a local government may, upon reasonable written notice, review and audit the business records of a video service provider to the extent necessary to ensure payment of a franchise fee pursuant to this chapter. If the results of such a review and audit identify an underpayment of the franchise fee in an amount that requires corrective action, the local government may perform a subsequent compliance review and audit to determine whether the video service provider has corrected the underpayment of the franchise fee. The compliance review and audit must be performed not later than 12 months after the date on which the results of the initial review and audit are submitted to the local government.***

2. ***The local government and the video service provider shall each pay its own costs and fees relating to each review and audit performed pursuant to subsection 1, except that if the video service provider elects to have the local government review and audit the requested business records of the video service provider at a location outside the territorial boundaries of the local government, the video service provider shall pay the per diem allowances and travel expenses incurred by the local government to perform the review and audit at that location.***

3. A person who performs a review and audit pursuant to subsection 1 may not receive compensation that is based, in whole or in part, on:

(a) Finding a particular result; or

(b) The amount of any underpayment of the franchise fee that is identified as a result of the review and audit.

4. Any action to recover a disputed underpayment of a franchise fee from a video service provider must be commenced and prosecuted by the Attorney General on behalf of the affected local governments.

5. A video service provider may bring an action against a local government to recover a disputed overpayment of a franchise fee to the local government.

6. Any action to recover a disputed underpayment or overpayment of a franchise fee must be commenced in a district court not later than 4 years after the last day of the tax year to which the disputed underpayment or overpayment relates.

7. Each party shall pay its own costs and attorney's fees in commencing and prosecuting any action involving a disputed underpayment or overpayment of a franchise fee.

Sec. 48. ***As used in sections 48 to 59, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 49 to 53, inclusive, have the meanings ascribed to them in those sections.***

Sec. 49. ***"Hub office" means the facility and related equipment located within a video service network at which video programming is received directly or indirectly from national or international content providers or broadcast networks and combined with local programming and channels for signal distribution to subscribers through central offices and related transmission or transport facilities.***

Sec. 50. ***"Locally produced video programming" means video programming produced for a service area by:***

1. One or more natural persons who reside within the service area; or

2. Any local government, educational institution or other public or nonprofit private entity located within the service area.

Sec. 51. ***"Nonrepeat locally produced video programming" includes, without limitation, the first three videocastings of an official meeting of a local government.***

Sec. 52. ***"PEG access channel" means a channel that videocasts PEG access programming.***

Sec. 53. ***"PEG access programming" means noncommercial public, educational and governmental video programming or the capacity for the transmission of such programming.***

Sec. 54. ***For the purposes of sections 48 to 59, inclusive, of this act, a PEG access channel shall be deemed to be "substantially utilized" if at least 12 hours of PEG access programming, excluding any alpha-numeric programming, is videocast on the PEG access channel each calendar day and at least 80 percent of the PEG access programming on each calendar day is nonrepeat locally produced video programming.***

Sec. 54.5. ***1. Except as otherwise provided in subsection 2, the provisions of sections 48 to 59, inclusive, of this act do not apply to any existing PEG access channel in service on the effective date of this act.***

2. The provisions of sections 48 to 59, inclusive, of this act do not prevent a video service provider from changing the channel number assigned to any PEG access channel, including, without limitation, any existing PEG access channel in service on the effective date of this act. If a video service provider intends to change the channel number assigned to any PEG access channel, the provider:

(a) Shall use good faith efforts to provide the affected local government with written notice of the change, to the extent reasonably practicable, at least 120 days before the date on which the change is to become effective; and

(b) Shall not provide such notice less than 30 days before the date on which the change is to become effective.

Sec. 55. ***Except as otherwise provided in sections 48 to 59, inclusive, of this act, a holder of a certificate is not required to:***

1. Provide any network or channel capacity or free or discounted cable service or other service to any governmental entity or school, library or other public building; or

2. Furnish any funds, services, programming, facilities, staffing or equipment related to the use of PEG access channels or the production or videocasting of PEG access programming.

Sec. 56. ***1. Not sooner than 12 months after the date on which an incumbent cable operator obtains a certificate of authority, the incumbent cable operator may cease providing any network or channel capacity or free or discounted cable service or other service to any governmental entity or school, library or other public building.***

2. If an incumbent cable operator ceases to provide network or channel capacity to a governmental entity, the incumbent cable operator may reclaim for its own purposes the network or channel capacity that was used by the governmental entity unless:

(a) The governmental entity uses the capacity for PEG access programming pursuant to sections 48 to 59, inclusive, of this act; or

(b) The incumbent cable operator and the governmental entity enter into a commercial agreement regarding the rates, terms and conditions for the governmental entity to continue using the network or channel capacity.

Sec. 57. ***1. On or after the date on which a holder of a certificate first provides video service to at least one subscriber within the service area of a local government, the local government may request that the holder provide capacity for PEG access programming on its video service network on any service tier viewed by more than 50 percent of the subscribers in that service area. Within a reasonable period of not less than 120 days after the date on which the local government submits its request, the holder shall provide the local government with such capacity for PEG access programming subject to the provisions of sections 48 to 59, inclusive, of this act.***

2. If a video service provider did not provide capacity for PEG access programming to a local government while operating pursuant to a local franchise, the video service provider shall, after obtaining a certificate of authority, provide capacity for PEG access programming to the local government upon a request made by the local government pursuant to this section.

Sec. 58. ***1. A local government that requests capacity for PEG access programming may require a holder of a certificate to designate:***

(a) Not more than two PEG access channels, if the population within the jurisdiction of the local government is less than 50,000.

(b) Not more than three PEG access channels, if the population within the jurisdiction of the local government is 50,000 or more.

2. The number of PEG access channels set forth in subsection 1 constitutes the total number of PEG access channels that the holder may be required to designate on any single video service network utilizing a single headend or hub office, or on all commonly owned video service networks that share a common headend or hub office, regardless of the number of local governments served from that headend or hub office. If more than one local government is served by a single or common headend or hub office, the populations within the jurisdictions of all those local governments must be aggregated to determine the total number of PEG access channels under subsection 1.

3. When a local government submits its request for capacity for PEG access programming, the local government must submit information which establishes that each PEG access channel it has requested will be substantially utilized. If one or more of the PEG access channels available under subsection 1 are being used at the headend or hub office when the local government submits its request, the holder is not required to make any of the remaining PEG access channels available to the local government unless the local government submits information which establishes that all existing PEG access channels at the headend or hub office are being substantially utilized.

4. Except as otherwise provided in subsection 5, if a local government does not substantially utilize a PEG access channel made available to it pursuant this section, the holder may reclaim the channel capacity for its own purposes. After reclaiming the channel capacity, if the local government makes a request for restoration of the PEG access channel and submits to the holder information which establishes that the PEG access channel will be substantially utilized, the holder shall restore the PEG access channel to the local government unless, when the request is submitted to the holder, the maximum number of PEG access channels available under subsection 1 are being used at the headend or hub office which serves the local government. If the restoration can be made within the limits of subsection 1, the holder shall restore the PEG access channel to the local government within a reasonable period of not less than 120 days after the date on which the request is submitted to the holder.

5. The provisions of subsection 4 do not apply to the first PEG access channel which is made available to a local government that does not have a PEG access channel in service on the effective date of this act.

Sec. 59. ***1. A local government receiving the benefit of a PEG access channel, or its designee, is responsible for producing the programming of***

that channel and for providing that programming to the holder of a certificate. The holder is responsible only for the transmission of the programming to subscribers.

2. A local government, or its designee, shall provide to the holder all programming for a PEG access channel in a manner or form that is:

(a) Capable of being accepted and transmitted by the holder over its video service network without alteration or change in the content or transmission signal; and

(b) Compatible with the technology or protocol utilized by the holder to deliver its video service.

3. A local government shall:

(a) Make the programming for each PEG access channel available in a nondiscriminatory manner to all holders or incumbent cable operators providing video service in the service area of the local government.

(b) Provide all facilities necessary for connectivity to a single PEG access channel distribution point in the service area of the local government, except that the first 200 feet extending from the video service network for the connectivity is the responsibility of the holder.

4. Where necessary and technically feasible, holders or incumbent cable operators shall use reasonable efforts to interconnect their video service networks for the purpose of exchanging PEG access channel programming on mutually acceptable rates, terms and conditions. Interconnection may be accomplished by direct cable microwave link, satellite or other reasonable methods of connection. Holders and incumbent cable operators shall negotiate interconnection in good faith. The person requesting interconnection is responsible for any costs, including, without limitation, signal transmission from the origination point to the point of interconnection.

Sec. 60. ***1. A video service provider or a local government may file with the Bureau of Consumer Protection*** ~~*[in the Office of the Attorney General]*~~ ***a written complaint alleging a violation of the provisions of this chapter.***

2. Upon a written complaint filed by a video service provider or a local government pursuant to this section, the ~~*[Attorney General]*~~ ***Consumer's Advocate may commence in a district court an action to enforce the provisions of this chapter and to seek*** ~~*[injunctive]*~~ ***equitable or declaratory relief.***

3. If such an action is commenced against a video service provider and the district court determines that the provider has violated any provision of this chapter, the court shall issue an order to the provider directing the provider to take corrective action within a specified reasonable period and providing for such other ~~*[injunctive]*~~ ***equitable or declaratory relief as the court finds necessary, including, without limitation, suspending the certificate of authority held by the video service provider.***

4. If the district court orders equitable or declaratory relief in an action brought by the Consumer's Advocate pursuant to this section, the court shall award the Consumer's Advocate, in an amount approved by the court, reasonable attorney's fees and costs incurred by the Consumer's Advocate in bringing the action.

5. The provisions of this section do not ~~*[apply]*~~ **:**

(a) Apply to any action authorized pursuant to NRS 711.265 to 711.290, inclusive, or section 47 of this act.

(b) Prevent the Bureau of Consumer Protection from enforcing any applicable provisions of chapter 598 of NRS against a video service provider.

6. As used in this section:

(a) "Bureau of Consumer Protection" means the Bureau of Consumer Protection in the Office of the Attorney General.

(b) "Consumer's Advocate" means the Consumer's Advocate of the Bureau of Consumer Protection.

Sec. 61. NRS 711.020 is hereby amended to read as follows:

711.020 [~~The words and phrases~~] *As* used in this chapter [~~have the meanings ascribed to them~~] ***, unless the context otherwise requires, the words and terms defined*** in NRS 711.030 to 711.074, inclusive, [~~unless a different meaning clearly appears in the context.~~] ***and sections 3 to 27, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 62. NRS 711.030 is hereby amended to read as follows:

711.030 ***1.*** "Community antenna television company" means any person [~~or organization which~~] *who* owns, controls, operates or manages a community antenna television system . [~~, except that the definition~~]

2. The term does not include:

[~~1. A telephone, telegraph~~]

(a) A telecommunication provider or electric utility regulated by the Public Utilities Commission of Nevada where the ***telecommunication provider or electric*** utility merely leases or rents to a community antenna television company wires or cables for the redistribution of television signals to or toward subscribers of that company; or

[~~2. A telephone or telegraph utility~~]

(b) A telecommunication provider regulated by the Public Utilities Commission of Nevada where the [~~utility~~] ***telecommunication provider*** merely provides channels of communication under published tariffs filed with that Commission to a community antenna television company for the redistribution of television signals to or toward subscribers of that company.

Sec. 63. NRS 711.040 is hereby amended to read as follows:

711.040 1. "Community antenna television system" means any facility ***, or any component thereof, which is:***

(a) Located within this State [~~which is constructed~~] *;*

(b) Constructed in whole or in part in, on, under or over any ***public right-of-way or*** highway [~~or other public place and is operated~~] ***; and***

(c) Operated to perform for hire the service of:

~~[(a)]~~ ***(1)*** Receiving and amplifying the signals broadcast by one or more television stations or provided for public, educational or governmental purposes and redistributing those signals by wire, cable or other means of closed transmission; or

~~[(b)]~~ ***(2)*** Providing two-way interactive services by wire, cable or other means of closed transmission, including, without limitation, Internet services, intranet services and electronic mail,

➥ to members of the public who subscribe to the service.

2. ~~[Such a system]~~ ***The term*** does not include any system which serves:

(a) Fewer than 50 subscribers; or

(b) Only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of those dwellings , if the buildings are separated by not more than one public ~~[street or]~~ right-of-way ~~[.]~~ ***or highway.***

3. As used in this section, "apartment dwelling" does not include a hotel, motel, condominium, town house or other similar dwelling.

Sec. 64. NRS 711.060 is hereby amended to read as follows:

711.060 "Facility" means all real property, antennae, poles, wires, cables, conduits, amplifiers, instruments, appliances, fixtures and other personal property used by a ~~[community antenna television company]~~ ***video service provider*** to provide service to its subscribers.

Sec. 65. NRS 711.074 is hereby amended to read as follows:

711.074 ***1.*** "Local government" means any city or county . ~~[which has the power to grant a franchise under NRS 711.190.]~~

2. The term includes, without limitation:

(a) Any entity or agency that is directly or indirectly controlled by any city or county; and

(b) Any entity or agency that is created by joint action or any interlocal or cooperative agreement of two or more cities or counties, or any combination thereof.

Sec. 66. NRS 711.175 is hereby amended to read as follows:

711.175 1. Except as otherwise provided in subsection 2 and NRS 318.1192 *:* ~~[, 318.1193 and 318.1194:]~~

(a) The governing body of a county whose population is 50,000 or more, and any entity or agency that is directly or indirectly controlled by such a county, shall not sell ~~[the services of a community antenna television system]~~ ***video service*** to the general public.

(b) The governing body of a city whose population is 25,000 or more, and any entity or agency that is directly or indirectly controlled by such a city, shall not sell ~~[the services of a community antenna television system]~~ ***video service*** to the general public.

2. If the governing body of a county or city, or any entity or agency that is directly or indirectly controlled by such a county or city, was selling ~~[the services of a community antenna television system]~~ ***video service*** to the

general public on April 1, 2003, it may continue to sell ~~[the services of a community antenna television system]~~ ***video service*** to the general public after that date, regardless of the population of the county or city.

Sec. 67. NRS 711.178 is hereby amended to read as follows:

711.178 1. If the governing body of a county or city is authorized pursuant to NRS 711.175 to sell ~~[the services of a community antenna television system]~~ ***video service*** to the general public, the governing body, and any entity or agency that is directly or indirectly controlled by the county or city, shall not construct, own, manage or operate a ~~[community antenna television system]~~ ***video service network*** in any area outside its territorial boundaries unless it:

(a) Obtains a ~~[franchise from the appropriate governing body pursuant to NRS 711.190]~~ ***certificate of authority*** for that portion of the ~~[community antenna television system]~~ ***video service network*** which it constructs, owns, manages or operates outside its territorial boundaries; and

(b) Complies with the same federal, state and local requirements that apply to a privately held ~~[community antenna television company]~~ ***video service provider*** with regard to that portion of the ~~[community antenna television system]~~ ***video service network*** which it constructs, owns, manages or operates outside its territorial boundaries.

2. ~~[On and after October 1, 2003, if]~~ *If* the governing body of a county or city is authorized pursuant to NRS 711.175 to sell ~~[the services of a community antenna television system]~~ ***video service*** to the general public, the governing body, and any entity or agency that is directly or indirectly controlled by the county or city, shall not construct, own, manage or operate a ~~[community antenna television system]~~ ***video service network*** in any area within its territorial boundaries which is governed by another governing body and which is served by one or more privately held ~~[community antenna television companies]~~ ***video service providers*** unless it:

(a) Obtains a ~~[franchise from the other governing body pursuant to NRS 711.190 or enters into an interlocal agreement with the other governing body;]~~ ***certificate of authority for that portion of the video service network which it constructs, owns, manages or operates within the jurisdiction of the other governing body;***

(b) Is ~~*[Except as otherwise provided in section 29.5 of this act, is]*~~ required by the ~~[franchise or interlocal agreement]~~ ***certificate of authority*** to comply with the same ***federal, state and local*** requirements that apply to the privately held ~~[community antenna television companies;]~~ ***video service providers with regard to that portion of the video service network which it constructs, owns, manages or operates within the jurisdiction of the other governing body;*** and

(c) Is prohibited by the ~~[franchise or interlocal agreement]~~ ***certificate of authority*** from providing the services of the ~~[community antenna television system,]~~ ***video service provider,*** free of charge, to any governmental officer or employee for his personal or household use.

3. The provisions of this section do not require the governing body of a county or city, or any entity or agency that is directly or indirectly controlled by the county or city, to obtain a certificate of authority for a service area if it is providing video service as an incumbent cable operator which holds an unexpired local franchise and which has elected pursuant to sections 32 and 32.5 of this act to continue to operate within that service area pursuant to the local franchise.

Sec. 68. NRS 711.240 is hereby amended to read as follows:

711.240 1. Except with respect to reasonable promotional activities, a ~~[person]~~ ***video service provider*** shall not advertise, offer to provide or provide any ***video*** service to subscribers ~~[of television services]~~ at a rate, including any rebate, less than the cost to the ~~[company]~~ ***video service provider*** to provide ~~[the service which is advertised, offered or provided]~~ ***that service*** with the intent to:

(a) Impair fair competition or restrain trade among ~~[companies]~~ ***video service providers*** which provide ~~[services]~~ ***video service*** in the same area; or

(b) Create a monopoly.

2. For the purposes of this section, "cost" means the expense of doing business including, without limitation, expenses for labor, rent, depreciation, interest, maintenance, delivery of the ***video*** service, franchise fees, taxes, insurance and advertising.

3. ~~[A community antenna television company may offer any telecommunication or related services which are offered in the same area by a telephone company, pursuant to chapter 704 of NRS and regulations approved by the Public Utilities Commission of Nevada for providers of similar services. A community antenna television company shall obtain a certificate of public convenience and necessity pursuant to NRS 704.330 before providing telecommunication or related services which are subject to regulation by the Public Utilities Commission of Nevada.~~

~~4.]~~ A violation of subsection 1 constitutes a prohibited act under NRS 598A.060. The Attorney General and any other person may exercise the powers conferred by that chapter to prevent, remedy or punish such a violation. The provisions of chapter 598A of NRS apply to any such violation.

Sec. 69. NRS 711.255 is hereby amended to read as follows:

711.255 1. A landlord shall not:

(a) Interfere with the receipt of service by a tenant from a ~~[community antenna television company]~~ ***video service provider*** or discriminate against a tenant for receiving ~~[such a company's service.]~~ ***service from a video service provider.***

(b) Except as otherwise provided in subsection 3, demand or accept payment of any fee, charge or valuable consideration from a ~~[community antenna television company]~~ ***video service provider*** or a tenant in exchange for granting access to the ~~[community antenna television company]~~ ***provider*** to provide ~~[its services]~~ ***service*** to the tenant.

2. A ~~[community antenna television company]~~ ***video service provider*** which desires to provide ~~[such services]~~ ***service*** to a tenant shall give 30 days' written notice of that desire to the landlord before the ~~[company]~~ ***provider*** takes any action to provide that service. Before authorizing the receipt of such service a landlord may:

(a) Take such reasonable steps as are necessary to ensure that the safety, function and appearance of the premises and the convenience and safety of persons on the property are not adversely affected by the installation, construction, operation or maintenance of the facilities necessary to provide the service, and is entitled to be reimbursed by the ~~[community antenna television company]~~ ***provider*** for the reasonable expenses incurred;

(b) Require that the cost of the installation, construction, operation, maintenance or removal of the necessary facilities be borne by the ~~[community antenna television company;]~~ ***provider;*** and

(c) Require the ~~[community antenna television company]~~ ***provider*** to provide evidence that the ~~[company]~~ ***provider*** will indemnify the landlord for any damage caused by the installation, construction, operation, maintenance or removal of the facilities.

3. A landlord is entitled to receive reasonable compensation for any direct adverse economic effect resulting from granting access to a ~~[community antenna television company.]~~ ***video service provider.*** There is a rebuttable presumption that the direct adverse economic effect resulting from granting access to the real property of the landlord is $1,000 or $1 for each dwelling unit thereon, whichever sum is greater. If a landlord intends to require the payment of such compensation in an amount exceeding that sum, the landlord shall notify the ~~[community antenna television company]~~ ***provider*** in writing of that intention. If the ~~[company]~~ ***provider*** does not receive such a notice within 20 days after the landlord is notified by the ~~[company]~~ ***provider*** that a tenant has requested the ~~[company]~~ ***provider*** to provide ~~[its services]~~ ***service*** to the tenant on the landlord's premises, the landlord may not require compensation for access to that tenant's dwelling unit in an amount exceeding $1,000. If within 30 days after receiving a landlord's request for compensation in an amount exceeding $1,000, the ~~[company]~~ ***provider*** has not agreed to pay the requested amount or an amount mutually acceptable to the ~~[company]~~ ***provider*** and the landlord, the landlord may petition a court of competent jurisdiction to set a reasonable amount of compensation for the damage of or taking of his real property. Such an action must be filed within 6 months after the date the ~~[company]~~ ***provider*** completes construction.

4. In establishing the amount which will constitute reasonable compensation for any damage or taking ***claim*** by a landlord in excess of the sum established by rebuttable presumption pursuant to subsection 3, the court shall consider:

(a) The extent to which the ~~[community antenna television company's]~~ facilities ***of the video service provider*** physically occupy the premises;

(b) The actual long-term damage which the ~~[company's]~~ facilities ***of the video service provider*** may cause to the premises;

(c) The extent to which the ~~[company's]~~ facilities ***of the video service provider*** would interfere with the normal use and enjoyment of the premises; and

(d) The diminution or enhancement in value of the premises resulting from the availability of the service.

~~[➥ The court may also award to the prevailing party reasonable attorney's fees.]~~

5. The ~~[company's]~~ right ***of a video service provider*** to construct, install or repair its facilities and maintain its services within and upon the landlord's premises is not affected or impaired because the landlord requests compensation in an amount exceeding the sum established by rebuttable presumption pursuant to subsection 3, or files an action to assert a specific claim against the ~~[company.]~~ ***provider.***

6. A ~~[community antenna television company]~~ ***video service provider*** shall not offer a special discount or other benefit to a particular group of tenants as an incentive ***for those tenants*** to request ~~[the company's services,]~~ ***service from the provider,*** unless the same discount or benefit is offered generally in the county.

7. ~~[The community antenna television company and the]~~ ***A video service provider and a*** landlord shall negotiate in good faith for the purchase of the landlord's existing cable facilities rather than for the construction of new facilities on the premises.

8. As used in this section, "landlord" means an owner of real property, or his authorized representative, who provides a dwelling unit on the real property for occupancy by another for valuable consideration. The term includes, without limitation, the lessor of a mobile home lot and the lessor or operator of a mobile home park.

Sec. 70. NRS 711.265 is hereby amended to read as follows:

711.265 1. Any person who:

(a) By the attachment of a ground wire, or by any other contrivance, willfully destroys the insulation of a ~~[telecommunications line of a community antenna television company,]~~ ***wire, cable, conduit, line or similar facility of a video service provider*** or interrupts the transmission of the electric current through ~~[the line;]~~ ***such a wire, cable, conduit, line or similar facility;***

(b) Willfully interferes with the use of ~~[any such line,]~~ ***such a wire, cable, conduit, line or similar facility*** or obstructs or postpones the transmission of any message *or signal* over ~~[the line;]~~ ***such a wire, cable, conduit, line or similar facility;*** or

(c) Procures or advises any such injury, interference or obstruction,

➥ is guilty of a public offense, as prescribed in NRS 193.155, proportionate to the value of any property damaged, altered, removed or destroyed and in no event less than a misdemeanor.

2. Any person who violates the provisions of subsection 1 is, in addition to the penalty set forth in that subsection, liable to the ~~[community antenna television company]~~ ***video service provider*** injured by such conduct in a civil action for all damages occasioned thereby.

Sec. 71. NRS 711.270 is hereby amended to read as follows:

711.270 1. It is unlawful for a person knowingly , ~~[and]~~ with the intent to intercept or receive a program or other service provided by a ~~[community antenna television company,]~~ ***video service provider and*** without the authorization of the ~~[company,]~~ ***provider,*** to:

(a) Make a connection or attach a device to a line or other ~~[component of a community antenna television company;]~~ ***facility of the provider;***

(b) Purchase or possess a device or kit designed to intercept or receive a program or other service provided by the ~~[community antenna television company;]~~ ***provider;***

(c) Make or maintain a modification to a device installed by or with the authorization of ~~[a community antenna television company]~~ ***the provider*** to intercept or receive a program or other service provided by the ~~[community antenna television company;]~~ ***provider;*** or

(d) Manufacture, import, distribute, advertise, sell, lease, offer to sell or lease, or possess with the intent to sell or lease a device designed to decode, descramble, intercept or otherwise make intelligible a signal encoded by ~~[a community antenna television company.]~~ ***the provider.***

2. Unless a greater penalty is provided in NRS 711.265:

(a) Except as otherwise provided in paragraph (b), a person who violates paragraph (a), (b) or (c) of subsection 1 is guilty of a misdemeanor.

(b) A person who violates paragraph (a), (b) or (c) of subsection 1 for commercial advantage, whether direct or indirect, is guilty of a gross misdemeanor.

(c) A person who violates paragraph (d) of subsection 1:

(1) If the violation involves nine or fewer devices, is guilty of a gross misdemeanor.

(2) If the violation involves 10 or more devices, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 72. NRS 711.280 is hereby amended to read as follows:

711.280 1. A person who violates paragraph (a), (b) or (c) of subsection 1 of NRS 711.270 is, in addition to being criminally liable pursuant to NRS 711.270, civilly liable to the ~~[community antenna television company]~~ ***video service provider*** injured by the conduct for $3,500 or three times any actual damages incurred by the company, whichever is greater, and reasonable attorney's fees.

2. A person who violates paragraph (d) of subsection 1 of NRS 711.270 is, in addition to being criminally liable pursuant to NRS 711.270, civilly liable to the ~~[community antenna television company]~~ ***video service provider*** injured by the conduct for $5,000 or three times any actual damages incurred by the company, whichever is greater, and reasonable attorney's fees.

3. In any action brought pursuant to this section, proof that any of the acts prohibited in subsection 1 were committed on or about the premises occupied by the defendant is prima facie evidence that such acts were committed by the defendant.

4. ~~[An owner or operator of a community antenna television company]~~ ***A video service provider*** may bring an action to enjoin any violation of NRS 711.270.

Sec. 73. NRS 37.010 is hereby amended to read as follows:

37.010 Subject to the provisions of this chapter, the right of eminent domain may be exercised in behalf of the following public purposes:

1. Federal activities. All public purposes authorized by the Government of the United States.

2. State activities. Public buildings and grounds for the use of the State, the Nevada System of Higher Education and all other public purposes authorized by the Legislature.

3. County, city, town and school district activities. Public buildings and grounds for the use of any county, incorporated city or town, or school district, reservoirs, water rights, canals, aqueducts, flumes, ditches or pipes for conducting water for the use of the inhabitants of any county, incorporated city or town, for draining any county, incorporated city or town, for raising the banks of streams, removing obstructions therefrom, and widening, deepening or straightening their channels, for roads, streets and alleys, and all other public purposes for the benefit of any county, incorporated city or town, or the inhabitants thereof.

4. Bridges, toll roads, railroads, street railways and similar uses. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation.

5. Ditches, canals, aqueducts for smelting, domestic uses, irrigation and reclamation. Reservoirs, dams, water gates, canals, ditches, flumes, tunnels, aqueducts and pipes for supplying persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic and other uses, for irrigating purposes, for draining and reclaiming lands, or for floating logs and lumber on streams not navigable.

6. Mining, smelting and related activities. Mining, smelting and related activities as follows:

(a) Mining and related activities, which are recognized as the paramount interest of this State.

(b) Roads, railroads, tramways, tunnels, ditches, flumes, pipes, reservoirs, dams, water gates, canals, aqueducts and dumping places to facilitate the milling, smelting or other reduction of ores, the working, reclamation or dewatering of mines, and for all mining purposes, outlets, natural or otherwise, for the deposit or conduct of tailings, refuse, or water from mills, smelters, or other work for the reduction of ores from mines, mill dams,

pipelines, tanks or reservoirs for natural gas or oil, an occupancy in common by the owners or possessors of different mines, mills, smelters or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter and the necessary land upon which to erect smelters and to operate them successfully, including the deposit of fine flue dust, fumes and smoke.

7. Byroads. Byroads leading from highways to residences and farms.

8. Public utilities. Lines for telegraph, telephone, electric light and electric power and sites for plants for electric light and power.

9. Sewerage. Sewerage of any city, town, settlement of not less than 10 families or any public building belonging to the State or college or university.

10. Water for generation and transmission of electricity. Canals, reservoirs, dams, ditches, flumes, aqueducts and pipes for supplying and storing water for the operation of machinery to generate and transmit electricity for power, light or heat.

11. Cemeteries, public parks. Cemeteries or public parks.

12. Pipelines of beet sugar industry. Pipelines to conduct any liquids connected with the manufacture of beet sugar.

13. Pipelines for petroleum products, natural gas. Pipelines for the transportation of crude petroleum, petroleum products or natural gas, whether interstate or intrastate.

14. Aviation. Airports, facilities for air navigation and aerial rights-of-way.

15. Monorails. Monorails and any other overhead or underground system used for public transportation.

16. ~~[Community antenna television companies. Community antenna television companies which have been granted a franchise from the governing body of the jurisdictions in which they provide services.]~~ ***Video service providers. Video service providers that are authorized pursuant to chapter 711 of NRS to operate a video service network.*** The exercise of the power of eminent domain may include the right to use the wires, conduits, cables or poles of any public utility if:

(a) It creates no substantial detriment to the service provided by the utility;

(b) It causes no irreparable injury to the utility; and

(c) The Public Utilities Commission of Nevada, after giving notice and affording a hearing to all persons affected by the proposed use of the wires, conduits, cables or poles, has found that it is in the public interest.

17. Redevelopment. The acquisition of property pursuant to NRS 279.382 to 279.685, inclusive.

Sec. 74. NRS 118B.0195 is hereby amended to read as follows:

118B.0195 ”Utility” includes ~~[a]~~ *:*

1. ***A*** public utility which provides:

~~[1.]~~ ***(a)*** Electricity;

~~[2.]~~ ***(b)*** Natural gas;

~~[3.]~~ ***(c)*** Liquefied petroleum gas;

~~[4. Cable television;~~

~~5.]~~ ***(d)*** Sewer services;

~~[6.]~~ ***(e)*** Garbage collection; or

~~[7.]~~ ***(f)*** Water.

2. A video service provider which provides video service pursuant to chapter 711 of NRS.

Sec. 75. NRS 205.0829 is hereby amended to read as follows:

205.0829 "Services" includes labor, professional services, transportation, cable television ~~[,]~~ ***or other video service,*** telephone, gas or electricity services, accommodations in hotels, restaurants, leased premises or elsewhere, admissions to exhibitions and the use of vehicles or other movable property.

Sec. 76. NRS 205.4743 is hereby amended to read as follows:

205.4743 1. "Information 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 by means of any component, device, equipment, system or network, including, without limitation, by means of:

(a) A computer, computer system, computer network, modem or scanner.

(b) A telephone, cellular phone, satellite phone, pager, personal communications device or facsimile machine.

(c) Any type of transmitter or receiver.

(d) Any other component, device, equipment, system or network that uses analog, digital, electronic, electromagnetic, magnetic or optical technology.

2. The term does not include ~~[a community antenna television company,]~~ ***video service,*** as defined in ~~[NRS 711.030.]~~ ***section 25 of this act.***

Sec. 76.3. **NRS 228.340 is hereby amended to read as follows:**

228.340 1. Except as otherwise provided by NRS 598A.260, all money collected by the Bureau of Consumer Protection pursuant to NRS 704.033 ***and chapter 711 of NRS*** and ***pursuant*** to those provisions ***of NRS*** relating to private investigators and unfair trade practices must be deposited with the State Treasurer for credit to the Account for the Bureau of Consumer Protection.

2. Money in the Account may be used only to defray the costs of maintaining the Office of the Consumer's Advocate and for carrying out the provisions of NRS 228.300 to 228.390, inclusive.

3. All claims against the Account must be paid as other claims against the State are paid.

Sec. 76.5. NRS 228.380 is hereby amended to read as follows:

228.380 1. Except as otherwise provided in this section, the Consumer's Advocate may exercise the power of the Attorney General in areas of consumer protection, including, but not limited to, enforcement of chapters 90, 597, 598, 598A, 598B, 598C ~~[and]~~ , 599B ***and 711*** of NRS.

2. The Consumer's Advocate may not exercise any powers to enforce any criminal statute set forth in ~~[chapters]~~ *:*

(a) Chapters 90, 597, 598, 598A, 598B, 598C or 599B of NRS for any transaction or activity that involves a proceeding before the Public Utilities Commission of Nevada if the Consumer's Advocate is participating in that proceeding as a real party in interest on behalf of the customers or a class of customers of utilities ~~[.~~

~~2.]~~ ***; or***

(b) Chapter 711 of NRS.

3. The Consumer's Advocate may expend revenues derived from NRS 704.033 only for activities directly related to the protection of customers of public utilities.

~~[3.]~~ ***4.*** The powers of the Consumer's Advocate do not extend to proceedings before the Public Utilities Commission of Nevada directly relating to discretionary or competitive telecommunication services.

Sec. 77. NRS 244.186 is hereby amended to read as follows:

244.186 1. If the governing body of a county is authorized pursuant to NRS 711.175 to sell video ~~[programming services]~~ ***service*** to the general public over a ~~[community antenna television system,]~~ ***video service network***, the governing body, and any entity or agency that is directly or indirectly controlled by the county, shall not do any of the following:

(a) Sell such video ~~[programming services]~~ ***service*** at a price that is less than the actual cost of the video ~~[programming services]~~ ***service*** or sell a bundle of services containing such video ~~[programming services]~~ ***service*** at a price that is less than the actual cost of the bundle of services.

(b) Use any money from the county general fund for the provision of such video ~~[programming services]~~ ***service*** over its ~~[community antenna television system.]~~ ***video service network.***

(c) Use its rights-of-way, its property or any special power it may possess by virtue of its status as a government or a government-owned utility to:

(1) Create a preference or advantage for its ~~[community antenna television system;]~~ ***video service network;*** or

(2) Impose any discriminatory burden on any privately held ~~[community antenna television company.]~~ ***video service provider.***

2. The provisions of this section must be enforced in the manner set forth in paragraph (c) of subsection 4 of NRS 354.624 and paragraph (c) of subsection 5 of NRS 354.624.

3. The provisions of this section do not create an exclusive remedy and do not abrogate or limit any other action or remedy that is available to the governing body or a privately held ~~[community antenna television company]~~ ***video service provider*** pursuant to any other statute or the common law.

4. As used in this section:

(a) ~~["Community antenna television company"]~~ ***"Video service"*** has the meaning ascribed to it in ~~[NRS 711.030.~~

~~(b) "Community antenna television system" has the meaning ascribed to it in NRS 711.040.~~

~~(c) "Video programming services" means services which are provided over a community antenna television system and which contain:~~

~~(1) Programming provided by a television broadcast station; or~~

~~(2) Programming that is generally considered comparable to programming provided by a television broadcast station.~~] ***section 25 of this act.***

(b) "Video service network" has the meaning ascribed to it in section 26 of this act.

(c) "Video service provider" has the meaning ascribed to it in section 27 of this act.

Sec. 78. NRS 271.204 is hereby amended to read as follows:

271.204 "Service facilities" means any works or improvements used or useful in providing:

1. Electric or communication service; or

2. Service from a [~~community antenna television system~~] ***video service network,*** as that term is defined in [~~NRS 711.040,~~] ***section 26 of this act,***

➥ including, but not limited to, poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, capacitors, meters, communication circuits, appliances, attachments and appurtenances.

Sec. 79. NRS 271.2045 is hereby amended to read as follows:

271.2045 "Service provider" means:

1. A person or corporation subject to the jurisdiction of the Public Utilities Commission of Nevada that provides electric or communication service to the public; and

2. A [~~community antenna television company~~] ***video service provider,*** as that term is defined in [~~NRS 711.030~~] ***section 27 of this act,*** that provides service from a [~~community antenna television system,~~] ***video service network,***

➥ by means of service facilities.

Sec. 80. NRS 271.850 is hereby amended to read as follows:

271.850 1. The service facilities within the boundaries of each lot within a district to finance an underground conversion project established pursuant to NRS 271.800 must be placed underground at the same time as or after the underground system in private easements and public places is placed underground. The service provider involved, directly or through a contractor, shall, in accordance with the rules and regulations of the service provider, but subject to the regulations of the Public Utilities Commission of Nevada and any other applicable laws, ordinances, rules or regulations of the municipality or any other public agency under the police power, convert to underground its facilities on any such lot:

(a) For service facilities that provide electric service, up to the service entrance.

(b) For service facilities that provide communication service or service from a ~~[community antenna television system]~~ ***video service network,*** as that term is defined in ~~[NRS 711.040,]~~ ***section 26 of this act,*** up to the connection point within the house or structure.

2. All costs or expenses of conversion must be included in the cost on which the cost of the underground conversion for that property is calculated.

3. As used in this section, "lot" includes any portion, piece or parcel of land.

Sec. 81. NRS 278.329 is hereby amended to read as follows:

278.329 A governing body or its authorized representative may relieve a person who proposes to divide land pursuant to NRS 278.360 to 278.460, inclusive, or 278.471 to 278.4725, inclusive, from the requirement to dedicate easements to public utilities that provide gas, electric, telecommunications, water and sewer services and any ~~[franchised community antenna television companies]~~ ***video service providers*** pursuant to paragraph (d) or (e) of subsection 9 of NRS 278.372 or paragraph (c) or (d) of subsection 4 of NRS 278.472 if the person demonstrates to the public body or its authorized representative that there is not an essential nexus to the public purpose for the dedication and the dedication is not roughly proportional in nature and extent to the impact of the proposed development.

Sec. 82. NRS 278.372 is hereby amended to read as follows:

278.372 1. The final map must be clearly and legibly drawn in permanent black ink upon good tracing cloth or produced by the use of other materials of a permanent nature generally used for such purpose in the engineering profession. Affidavits, certificates and acknowledgments must be legibly stamped or printed upon the final map with permanent black ink.

2. The size of each sheet of the final map must be 24 by 32 inches. A marginal line must be drawn completely around each sheet, leaving an entirely blank margin of 1 inch at the top, bottom, and right edges, and of 2 inches at the left edge along the 24-inch dimension.

3. The scale of the final map must be large enough to show all details clearly. The final map must have a sufficient number of sheets to accomplish this end.

4. Each sheet of the final map must indicate its particular number, the total number of sheets in the final map and its relation to each adjoining sheet.

5. The final map must show all surveyed and mathematical information and data necessary to locate all monuments and to locate and retrace all interior and exterior boundary lines appearing thereon, including the bearings and distances of straight lines, central angle, radii and arc length for all curves and such information as may be necessary to determine the location of the centers of curves.

6. Each lot must be numbered or lettered.

7. Each street must be named and each block may be numbered or lettered.

8. The exterior boundary of the land included within the subdivision must be indicated by graphic border.

9. The final map must show:

(a) The definite location of the subdivision, particularly its relation to surrounding surveys.

(b) The area of each lot and the total area of the land in the subdivision in the following manner:

(1) In acres, calculated to the nearest one-hundredth of an acre, if the area is 2 acres or more; or

(2) In square feet if the area is less than 2 acres.

(c) Any roads or easements of access which the owner intends to offer for dedication.

(d) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any ~~[community antenna television companies that have a franchise]~~ ***video service providers that are authorized pursuant to chapter 711 of NRS*** to operate a ~~[community antenna television system]~~ ***video service network*** in that area.

(e) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide water and sewer services.

10. The final map for a condominium must also indicate, for the purpose of assessing taxes, whether any garage units, parking spaces or storage units may be conveyed separately from the units within the condominium or are parceled separately from those units. As used in this subsection, "condominium" has the meaning ascribed to it in NRS 116.027.

11. The final map must also satisfy any additional survey and map requirements, including the delineation of Nevada state plane coordinates established pursuant to chapter 327 of NRS, for any corner of the subdivision or any other point prescribed by the local ordinance.

Sec. 83. NRS 278.374 is hereby amended to read as follows:

278.374 1. Except as otherwise provided in subsection 2, a final map presented for filing must include a certificate signed and acknowledged, in the manner provided in NRS 240.1665 or 240.167, by each person who is an owner of the land:

(a) Consenting to the preparation and recordation of the final map.

(b) Offering for dedication that part of the land which the person wishes to dedicate for public use, subject to any reservation contained therein.

(c) Reserving any parcel from dedication.

(d) Granting any permanent easement for utility or ~~[community antenna television cable]~~ ***video service network*** installation or access, as designated on the final map, together with a statement approving such easement, signed by the public utility, ~~[community antenna television company]~~ ***video service provider*** or person in whose favor the easement is created or whose services are required.

2. If the map presented for filing is an amended map of a common-interest community, the certificate need only be signed and acknowledged by a person authorized to record the map under chapter 116 of NRS.

3. A final map of a common-interest community presented for recording and, if required by local ordinance, a final map of any other subdivision presented for recording must include:

(a) A report from a title company in which the title company certifies that it has issued a guarantee for the benefit of the local government which lists the names of:

(1) Each owner of record of the land to be divided; and

(2) Each holder of record of a security interest in the land to be divided, if the security interest was created by a mortgage or a deed of trust.

➥ The guarantee accompanying a final map of a common-interest community must also show that there are no liens of record against the common-interest community or any part thereof for delinquent state, county, municipal, federal or local taxes or assessments collected as taxes or special assessments.

(b) The written consent of each holder of record of a security interest listed pursuant to subparagraph (2) of paragraph (a), to the preparation and recordation of the final map. A holder of record may consent by signing:

(1) The final map; or

(2) A separate document that is filed with the final map and declares his consent to the division of land.

4. For the purpose of this section, the following shall be deemed not to be an interest in land:

(a) A lien for taxes or special assessments.

(b) A trust interest under a bond indenture.

5. As used in this section, "guarantee" means a guarantee of the type filed with the Commissioner of Insurance pursuant to paragraph (e) of subsection 1 of NRS 692A.120.

Sec. 84. NRS 278.4713 is hereby amended to read as follows:

278.4713 1. Unless the filing of a tentative map is waived, a person who proposes to make a division of land pursuant to NRS 278.471 to 278.4725, inclusive, must first:

(a) File a tentative map for the area in which the land is located with the planning commission or its designated representative or with the clerk of the governing body if there is no planning commission; and

(b) Pay a filing fee of no more than $750 set by the governing body.

2. This map must be:

(a) Entitled "Tentative Map of Division into Large Parcels"; and

(b) Prepared and certified by a professional land surveyor.

3. This map must show:

(a) The approximate, calculated or actual acreage of each lot and the total acreage of the land to be divided.

(b) Any roads or easements of access which exist, are proposed in the applicable master plan or are proposed by the person who intends to divide the land.

(c) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any ~~[community antenna television companies that have a franchise]~~ ***video service providers that are authorized pursuant to chapter 711 of NRS*** to operate a ~~[community antenna television system]~~ ***video service network*** in that area.

(d) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide water and sewer services.

(e) Any existing easements for irrigation or drainage, and any normally continuously flowing watercourses.

(f) An indication of any existing road or easement which the owner does not intend to dedicate.

(g) The name and address of the owner of the land.

Sec. 85. NRS 278.472 is hereby amended to read as follows:

278.472 1. After the planning commission or the governing body or its authorized representative has approved the tentative map or waived the requirement of its filing, or 60 days after the date of its filing, whichever is earlier, the person who proposes to divide the land may file a final map of the division with the governing body or its authorized representative or, if authorized by the governing body, with the planning commission. The map must be accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid.

2. This map must be:

(a) Entitled "Map of Division into Large Parcels."

(b) Filed with the governing body or its authorized representative or, if authorized by the governing body, with the planning commission not later than 1 year after the date that the tentative map was first filed with the planning commission or the governing body or its authorized representative or that the requirement of its filing was waived.

(c) Prepared by a professional land surveyor.

(d) Based upon an actual survey by the preparer and show the date of the survey and contain the certificate of the surveyor required pursuant to NRS 278.375.

(e) Clearly and legibly drawn in permanent black ink upon good tracing cloth or produced by the use of other materials of a permanent nature generally used for this purpose in the engineering profession. Affidavits, certificates and acknowledgments must be legibly stamped or printed upon the map with permanent black ink.

(f) Twenty-four by 32 inches in size with a marginal line drawn completely around each sheet, leaving an entirely blank margin of 1 inch at

the top, bottom, and right edges, and of 2 inches at the left edge along the 24-inch dimension.

(g) Of scale large enough to show clearly all details.

3. The particular number of the sheet and the total number of sheets comprising the map must be stated on each of the sheets, and its relation to each adjoining sheet must be clearly shown.

4. This map must show and define:

(a) All subdivision lots by the number and actual acreage of each lot.

(b) Any roads or easements of access which exist and which the owner intends to offer for dedication, any roads or easements of access which are shown on the applicable master plan and any roads or easements of access which are specially required by the planning commission or the governing body or its authorized representative.

(c) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any ~~[community antenna television companies that have a franchise]~~ ***video service providers that are authorized pursuant to chapter 711 of NRS*** to operate a ~~[community antenna television system]~~ ***video service network*** in that area.

(d) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide water and sewer services.

(e) Any existing easements for irrigation or drainage, and any normally continuously flowing watercourses.

Sec. 86. NRS 318.1192 is hereby amended to read as follows:

318.1192 In the case of a district created wholly or in part for acquiring television maintenance facilities, the board shall have power to:

1. Acquire television broadcast, transmission and relay improvements ~~[.]~~ ***and construct and operate a video service network pursuant to chapter 711 of NRS.***

2. Levy special assessments against specially benefited real property on which are located television receivers operated within the district and able to receive television broadcasts supplied by the district.

3. Fix tolls, rates and other service or use charges for services furnished by the district or facilities of the district, including, without limitation, any one, all or any combination of the following:

(a) Flat rate charges;

(b) Charges classified by the number of receivers;

(c) Charges classified by the value of property served by television receivers;

(d) Charges classified by the character of the property served by television receivers;

(e) Minimum charges;

(f) Stand-by charges; or

(g) Other charges based on the availability of service.

4. The district shall not have the power in connection with the basic power stated in this section to borrow money which loan is evidenced by the issuance of any general obligation bonds or other general obligations of the district.

Sec. 87. NRS 354.59881 is hereby amended to read as follows:

354.59881 As used in NRS 354.59881 to 354.59889, inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~[354.598811]~~ ***354.598812*** to 354.598818, inclusive, have the meanings ascribed to them in those sections.

Sec. 88. NRS 354.598814 is hereby amended to read as follows:

354.598814 "Fee" means a charge imposed by a city or county upon a public utility for a business license, franchise or right-of-way over streets or other public areas, except ~~[~~:

~~1. Any]~~ ***any*** charge paid pursuant to the provisions of NRS 709.110, 709.230 or 709.270 . ~~[; or~~

~~2. A term or condition of a franchise granted by:~~

~~(a) A county whose population is 400,000 or more, or by an incorporated city that is located in whole or in part within such a county, that requires a community antenna television company to provide channels for public, educational or governmental access.~~

~~(b) A county or an incorporated city not specified in paragraph (a) that requires a community antenna television company to provide channels, facilities or equipment for public, educational or governmental access.]~~

Sec. 89. NRS 354.598817 is hereby amended to read as follows:

354.598817 ***1.*** "Public utility" includes ~~[~~:

~~1. A]~~ ***a*** person or local government that:

(a) Provides electric energy or gas, whether or not the person or local government is subject to regulation by the Public Utilities Commission of Nevada;

(b) Is a telecommunication carrier as that term is defined in 47 U.S.C. § 153 on July 16, 1997, if the person or local government holds a certificate of public convenience and necessity issued by the Public Utilities Commission of Nevada and derives intrastate revenue from the provision of telecommunication service to retail customers; or

(c) Sells or resells personal wireless services.

2. ~~[A community antenna television company as that term is]~~ ***The term does not include a video service provider, as*** defined in ~~[NRS 711.030.]~~ ***section 27 of this act.***

Sec. 90. NRS 354.598818 is hereby amended to read as follows:

354.598818 "Revenue" does not include:

1. Any proceeds from the interstate sale of natural gas to a provider of electric energy that holds a certificate of public convenience and necessity issued by the Public Utilities Commission of Nevada; ***or***

2. Any revenue of a provider of a telecommunication service other than intrastate revenue that the provider collects from retail customers . ~~[; or~~

~~3. The amount deducted from the gross revenue of a community antenna television company pursuant to paragraph (b) of subsection 2 of NRS 711.200.]~~

Sec. 91. NRS 354.5989 is hereby amended to read as follows:

354.5989 1. A local government shall not increase any fee for a business license or adopt a fee for a business license issued for revenue or regulation, or both, except as permitted by this section. This prohibition does not apply to fees:

(a) Imposed by hospitals, county airports, airport authorities, convention authorities, the Las Vegas Valley Water District or the Clark County Sanitation District;

(b) Imposed on public utilities for the privilege of doing business pursuant to a franchise;

(c) ***Imposed in compliance with the provisions of section 46 of this act on video service providers for the privilege of doing business pursuant to chapter 711 of NRS;***

(d) For business licenses which are calculated as a fraction or percentage of the gross revenue of the business;

~~[(d)]~~ ***(e)*** Imposed pursuant to NRS 244.348, 268.0973, 268.821 or 269.182; or

~~[(e)]~~ ***(f)*** Regulated pursuant to NRS 354.59881 to 354.59889, inclusive.

2. The amount of revenue the local government derives or is allowed to derive, whichever is greater, from all fees for business licenses except:

(a) The fees excluded by subsection 1, for the fiscal year ended on June 30, 1991; and

(b) The fees collected for a particular type of business during the immediately preceding fiscal year ending on June 30 that a local government will not collect in the next subsequent fiscal year,

➥ is the base from which the maximum allowable revenue from such fees must be calculated for the next subsequent fiscal year. To the base must be added the sum of the amounts respectively equal to the product of the base multiplied by the percentage increase in the population of the local government added to the percentage increase in the Consumer Price Index for the year ending on December 31 next preceding the year for which the limit is being calculated. The amount so determined becomes the base for computing the allowed increase for each subsequent year.

3. A local government may not increase any fee for a business license which is calculated as a fraction or percentage of the gross revenue of the business if its total revenues from such fees have increased during the preceding fiscal year by more than the increase in the Consumer Price Index during that preceding calendar year. The provisions of this subsection do not apply to a fee ~~[imposed]~~ *:*

(a) Imposed in compliance with the provisions of section 46 of this act on video service providers for the privilege of doing business pursuant to chapter 711 of NRS;

(b) Imposed pursuant to NRS 244.348, 268.0973, 268.821 or 269.182 ~~[, or regulated]~~ ***; or***

(c) Regulated pursuant to NRS 354.59881 to 354.59889, inclusive.

4. A local government may submit an application to increase its revenue from fees for business licenses beyond the amount allowable pursuant to this section to the Nevada Tax Commission, which may grant the application only if it finds that the rate of a business license of the local government is substantially below that of other local governments in the State.

5. The provisions of this section apply to a business license regardless of the fund to which the revenue from it is assigned. An ordinance or resolution enacted by a local government in violation of the provisions of this section is void.

6. As used in this section, "fee for a business license" does not include a tax imposed on the revenues from the rental of transient lodging.

Sec. 92. 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 service or community antenna television ***, cable television or other video*** 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. 93. 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 service or community antenna television ***, cable television or other video*** 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. 94. NRS 361.320 is hereby amended to read as follows:

361.320 1. At the regular session of the Nevada Tax Commission commencing on the first Monday in October of each year, the Nevada Tax Commission shall examine the reports filed pursuant to NRS 361.318 and establish the valuation for assessment purposes of any property of an interstate or intercounty nature used directly in the operation of all interstate or intercounty railroad, sleeping car, private car, natural gas transmission and distribution, water, telephone, scheduled and unscheduled air transport, electric light and power companies, and the property of all railway express companies operating on any common or contract carrier in this State. This valuation must not include the value of vehicles as defined in NRS 371.020.

2. Except as otherwise provided in subsections 3, 4 and 7 and NRS 361.323, the Nevada Tax Commission shall establish and fix the valuation of all physical property used directly in the operation of any such business of any such company in this State, as a collective unit. If the company is operating in more than one county, on establishing the unit valuation for the collective property, the Nevada Tax Commission shall then determine the total aggregate mileage operated within the State and within its several counties and apportion the mileage upon a mile-unit valuation basis. The number of miles apportioned to any county are subject to assessment in that county according to the mile-unit valuation established by the Nevada Tax Commission.

3. After establishing the valuation, as a collective unit, of a public utility which generates, transmits or distributes electricity, the Nevada Tax Commission shall segregate the value of any project in this State for the generation of electricity which is not yet put to use. This value must be assessed in the county where the project is located and must be taxed at the same rate as other property.

4. After establishing the valuation, as a collective unit, of an electric light and power company that places a facility into operation on or after July 1, 2003, in a county whose population is less than 100,000, the Nevada Tax Commission shall segregate the value of the facility from the collective unit. This value must be assessed in the county where the facility is located and taxed at the same rate as other property.

5. The Nevada Tax Commission shall adopt formulas and incorporate them in its records, providing the method or methods pursued in fixing and

establishing the taxable value of all property assessed by it. The formulas must be adopted and may be changed from time to time upon its own motion or when made necessary by judicial decisions, but the formulas must in any event show all the elements of value considered by the Nevada Tax Commission in arriving at and fixing the value for any class of property assessed by it. These formulas must take into account, as indicators of value, the company's income and the cost of its assets, but the taxable value may not exceed the cost of replacement as appropriately depreciated.

6. If two or more persons perform separate functions that collectively are needed to deliver electric service to the final customer and the property used in performing the functions would be centrally assessed if owned by one person, the Nevada Tax Commission shall establish its valuation and apportion the valuation among the several counties in the same manner as the valuation of other centrally assessed property. The Nevada Tax Commission shall determine the proportion of the tax levied upon the property by each county according to the valuation of the contribution of each person to the aggregate valuation of the property. This subsection does not apply to a qualifying facility, as defined in 18 C.F.R. § 292.101, which was constructed before July 1, 1997, or to an exempt wholesale generator, as defined in 15 U.S.C. § 79z-5a.

7. A company engaged in a business described in subsection 1 that does not have property of an interstate or intercounty nature must be assessed as provided in subsection 8.

8. All other property, including, without limitation, that of any company engaged in providing commercial mobile radio service, radio or television transmission services or cable television ***or other video*** services, must be assessed by the county assessors, except as otherwise provided in NRS 361.321 and 362.100 and except that the valuation of land and mobile homes must be established for assessment purposes by the Nevada Tax Commission as provided in NRS 361.325.

9. On or before November 1 of each year, the Department shall forward a tax statement to each private car line company based on the valuation established pursuant to this section and in accordance with the tax levies of the several districts in each county. The company shall remit the ad valorem taxes due on or before December 15 to the Department, which shall allocate the taxes due each county on a mile-unit basis and remit the taxes to the counties no later than January 31. The portion of the taxes which is due the State must be transmitted directly to the State Treasurer. A company which fails to pay the tax within the time required shall pay a penalty of 10 percent of the tax due or $5,000, whichever is greater, in addition to the tax. Any amount paid as a penalty must be deposited in the State General Fund. The Department may, for good cause shown, waive the payment of a penalty pursuant to this subsection. As an alternative to any other method of recovering delinquent taxes provided by this chapter, the Attorney General may bring a civil action in a court of competent jurisdiction to recover

delinquent taxes due pursuant to this subsection in the manner provided in NRS 361.560.

10. For the purposes of this section, an unscheduled air transport company does not include a company that only uses three or fewer fixed-wing aircraft with a weight of less than 12,500 pounds to provide transportation services, if the company elects, in the form and manner prescribed by the Department, to have the property of the company assessed by a county assessor.

11. As used in this section:

(a) "Company" means any person, company, corporation or association engaged in the business described.

(b) "Commercial mobile radio service" has the meaning ascribed to it in 47 C.F.R. § 20.3, as that section existed on January 1, 1998.

Sec. 95. NRS 372.728 is hereby amended to read as follows:

372.728 In administering the provisions of this chapter, the Department shall construe the term "retailer maintaining a place of business in this State" to include:

1. A retailer maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or place of storage, or any other place of business, in this State.

2. A retailer having any representative, agent, salesman, canvasser or solicitor operating in this State under the authority of the retailer or its subsidiary to sell, deliver or take orders for tangible personal property.

3. With respect to a lease, a retailer deriving rentals from a lease of tangible personal property situated in this State.

4. A retailer soliciting orders for tangible personal property through a system for shopping by means of telecommunication or television, using toll-free telephone numbers, which is intended by the retailer to be broadcast by cable television or ***other video service network or any*** other means of broadcasting to persons located in this State or through a website on the Internet or other electronic means of communication to provide solicitations to persons in this State.

5. A retailer who, pursuant to a contract with a broadcaster or publisher located in this State, solicits orders for tangible personal property by means of advertising which is disseminated primarily to persons located in this State and only secondarily to bordering jurisdictions.

6. A retailer soliciting orders for tangible personal property by mail or electronic facsimile if the solicitations are substantial and recurring and if the retailer benefits from any activities occurring in this State related to banking, financing, the collection of debts, telecommunication or marketing, or benefits from the location in this State of authorized facilities for installation, servicing or repairs.

7. A retailer owned or controlled by the same person who owns or controls a retailer who maintains a place of business in the same or a similar line of business in this State.

8. A retailer having a person operating under its trade name, pursuant to a franchise or license authorized by the retailer, if the person so operating is required to collect the tax pursuant to NRS 372.195.

9. A retailer who, pursuant to a contract with the operator of a ~~[system of]~~ cable television ***system or other video service network*** located in this State, solicits orders for tangible personal property by means of advertising which is transmitted or distributed over a ~~[system of]~~ cable television ***system or other video service network located*** in this State.

Sec. 96. NRS 372.734 is hereby amended to read as follows:

372.734 In administering the provisions of this chapter, the Department shall not consider the activities of persons that are directly related to the process of transmitting radio, television, cable television ***, video*** or data signals, including the transmission of news or information by ***video or*** data signal, the transmission of signals from one broadcaster to another and from a broadcaster to a member of the public and including the production and airing of any form of speech or broadcast by radio or television, whether or not compensation is provided to the broadcaster in connection therewith, to be transactions that are taxable pursuant to the provisions of this chapter.

Sec. 97. NRS 374.728 is hereby amended to read as follows:

374.728 In administering the provisions of this chapter, the Department shall construe the term "retailer maintaining a place of business in a county" to include:

1. A retailer maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or place of storage, or any other place of business, in the county.

2. A retailer having any representative, agent, salesman, canvasser or solicitor operating in the county under the authority of the retailer or its subsidiary to sell, deliver or take orders for tangible personal property.

3. With respect to a lease, a retailer deriving rentals from a lease of tangible personal property situated in the county.

4. A retailer soliciting orders for tangible personal property through a system for shopping by means of telecommunication or television, using toll-free telephone numbers, which is intended by the retailer to be broadcast by cable television or ***other video service network or any*** other means of broadcasting to persons located in the county or through a website on the Internet or other electronic means of communication to provide solicitations to persons in this State.

5. A retailer who, pursuant to a contract with a broadcaster or publisher located in the State, solicits orders for tangible personal property by means of advertising which is disseminated primarily to persons located in the State

and only secondarily to bordering jurisdictions, and which is disseminated to persons located in the county.

6. A retailer soliciting orders for tangible personal property by mail or electronic facsimile if the solicitations are substantial and recurring and if the retailer benefits from any activities occurring in the county related to banking, financing, the collection of debts, telecommunication or marketing, or benefits from the location in the county of authorized facilities for installation, servicing or repairs.

7. A retailer owned or controlled by the same persons who own or control a retailer who maintains a place of business in the same or a similar line of business in the county.

8. A retailer having a person operating under its trade name, pursuant to a franchise or license authorized by the retailer, if the person so operating is required to collect the tax pursuant to NRS 374.200.

9. A retailer who, pursuant to a contract with the operator of a ~~[system of]~~ cable television ***system or other video service network*** located in the State, solicits orders for tangible personal property by means of advertising which is transmitted or distributed over a ~~[system of]~~ cable television ***system or other video service network located*** in the county.

Sec. 98. NRS 374.739 is hereby amended to read as follows:

374.739 In administering the provisions of this chapter, the Department shall not consider the activities of persons that are directly related to the process of transmitting radio, television, cable television ***, video*** or data signals, including the transmission of news or information by ***video or*** data signal, the transmission of signals from one broadcaster to another and from a broadcaster to a member of the public and including the production and airing of any form of speech or broadcast by radio or television, whether or not compensation is provided to the broadcaster in connection therewith, to be transactions that are taxable pursuant to the provisions of this chapter.

Sec. 99. NRS 425.393 is hereby amended to read as follows:

425.393 1. The Chief may request the following information to carry out the provisions of this chapter:

(a) The records of the following public officers and state, county and local agencies:

(1) The State Registrar of Vital Statistics;

(2) Agencies responsible for maintaining records relating to state and local taxes and revenue;

(3) Agencies responsible for keeping records concerning real property and personal property for which a title must be obtained;

(4) All boards, commissions and agencies that issue occupational or professional licenses, certificates or permits;

(5) The Secretary of State;

(6) The Employment Security Division of the Department of Employment, Training and Rehabilitation;

(7) Agencies that administer public assistance;

(8) The Department of Motor Vehicles;

(9) The Department of Public Safety;

(10) The Department of Corrections; and

(11) Law enforcement agencies and any other agencies that maintain records of criminal history.

(b) The names and addresses of:

(1) The customers of public utilities and ~~[community antenna television companies;]~~ ***video service providers;*** and

(2) The employers of the customers described in subparagraph (1).

(c) Information in the possession of financial institutions relating to the assets, liabilities and any other details of the finances of a person.

(d) Information in the possession of a public or private employer relating to the employment, compensation and benefits of a person employed by the employer as an employee or independent contractor.

2. If a person or other entity fails to supply the information requested pursuant to subsection 1, the Administrator may issue a subpoena to compel the person or entity to provide that information. A person or entity who fails to comply with a request made pursuant to subsection 1 is subject to a civil penalty not to exceed $500 for each failure to comply.

3. A disclosure made in good faith pursuant to subsection 1 does not give rise to any action for damages for the disclosure.

Sec. 100. NRS 432.310 is hereby amended to read as follows:

432.310 "Broadcaster" means a radio broadcasting station, cable operator ***or other video service provider*** or television broadcasting station primarily engaged in, and deriving income from, the business of facilitating speech via over-the-air communications, both as to pure speech and commercial speech.

Sec. 101. NRS 455.210 is hereby amended to read as follows:

455.210 The provisions of NRS 455.220 and 455.230 are not applicable to:

1. An employee of a public utility which produces, transmits or delivers electricity, or a public utility which provides communication services, while the employee, in the course of his employment, constructs, modifies, operates or maintains:

(a) Electrical systems;

(b) Communication systems; or

(c) Overhead electrical or communication circuits or conductors, or the structures supporting them.

2. An employee of a ~~[cable antenna television system]~~ ***video service provider operating pursuant to chapter 711 of NRS*** or a business which provides communication services, while the employee, acting within the scope of his employment, is making service attachments to the structure supporting an overhead line carrying high voltage, if authorized to do so by the public utility operating the overhead line.

Sec. 102. NRS 597.816 is hereby amended to read as follows:

597.816 The provisions of NRS 597.814 do not prohibit the use of a device for automatic dialing and announcing by any person exclusively on behalf of:

1. A school or school district to contact the parents or guardians of a pupil regarding the attendance of the pupil or regarding other business of the school or school district.

2. A nonprofit organization.

3. A ~~[company]~~ ***video service provider*** that provides cable television ***or other video*** services to contact its customers regarding a previously arranged installation of such services at the premises of the customer.

4. A public utility to contact its customers regarding a previously arranged installation of utility services at the premises of the customer.

5. A facility that processes or stores petroleum, volatile petroleum products, natural gas, liquefied petroleum gas, combustible chemicals, explosives, high-level radioactive waste or other dangerous substances to advise local residents, public service agencies and news media of an actual or potential life-threatening emergency.

6. A state or local governmental agency, or a private entity operating under contract with and at the direction of such an agency, to provide:

(a) Information relating to public safety;

(b) Information relating to a police or fire emergency; or

(c) A warning of an impending or threatening emergency.

7. A candidate for public office, committee advocating the passage or defeat of a ballot question, political party, committee sponsored by a political party or a committee for political action.

Sec. 103. NRS 598.137 is hereby amended to read as follows:

598.137 1. A person shall not, in connection with the sale or lease or solicitation for sale or lease of any goods, property or service, represent that another person has a chance to receive a prize or item of value without clearly disclosing on whose behalf the contest or promotion is conducted and all conditions that a participant must meet.

2. A person who makes a representation described in subsection 1 must display, clearly and conspicuously, adjacent to the description of the item or prize to which it relates:

(a) The actual retail value of each item or prize;

(b) The number of each item or prize to be awarded; and

(c) The odds of receiving each item or prize, expressed in whole numbers.

3. It is unlawful to make a representation described in subsection 1 if it has already been determined which items will be given to the person to whom the representation is made.

4. The provisions of this section do not apply if:

(a) Participants are asked to complete and mail or deposit, at a local retail commercial establishment, an entry blank obtained locally or by mail, or to call in their entry by telephone; and

(b) Participants are not asked to listen to a sales presentation.

5. Advertisements with representations made pursuant to subsection 1 that are broadcast by radio or television may be broadcast without the required disclosures, conditions and restrictions but must clearly broadcast the availability of such disclosures, conditions and restrictions to an interested person, without any charge, upon request.

6. This section does not create liability for acts of a publisher, owner, agent or employee of a newspaper, periodical, radio station, television station, cable television system ***or other video service network*** or other advertising medium for the publication or dissemination of an advertisement or promotion pursuant to this section if the publisher, owner, agent or employee did not know that the advertisement or promotion violated the provisions of this section.

7. For the purposes of this section, the actual retail value of an item or prize is the price at which substantial sales of the item were made in an area within the last 90 days, or if no substantial sales were made, the cost of the item or prize to the person on whose behalf the contest or promotion is conducted.

Sec. 104. NRS 598A.040 is hereby amended to read as follows:

598A.040 The provisions of this chapter do not apply to:

1. Any labor, agricultural or horticultural organizations organized for the purpose of self-help and not for profit to itself nor to individual members thereof, while lawfully carrying out its legitimate objects.

2. Bona fide religious and charitable activities of any nonprofit corporation, trust or organization established exclusively for religious or charitable purposes.

3. Conduct which is expressly authorized, regulated or approved by:

(a) A statute of this State or of the United States;

(b) An ordinance of any city or county of this State, except for ordinances relating to ~~[community antenna television companies;]~~ ***video service providers;*** or

(c) An administrative agency of this State or of the United States or of a city or county of this State, having jurisdiction of the subject matter.

4. Conduct or agreements relating to rates, fares, classifications, divisions, allowances or charges, including charges between carriers and compensation paid or received for the use of facilities and equipment, that are authorized, regulated or approved by the Transportation Services Authority pursuant to chapter 706 of NRS.

5. Restrictive covenants:

(a) Which are part of a contract of sale for a business and which bar the seller of the business from competing with the purchaser of the business sold within a reasonable market area for a reasonable period of time; or

(b) Which are part of a commercial shopping center lease and which bar the parties from permitting or engaging in the furnishing of certain services or the sale of certain commodities within the commercial shopping center where such leased premises are located.

Sec. 105. NRS 599B.010 is hereby amended to read as follows:

599B.010 As used in this chapter, unless the context otherwise requires:

1. "Chance promotion" means any plan in which premiums are distributed by random or chance selection.

2. "Commissioner" means the Commissioner of Consumer Affairs.

3. "Consumer" means a person who is solicited by a seller or salesman.

4. "Division" means the Consumer Affairs Division of the Department of Business and Industry.

5. "Donation" means a promise, grant or pledge of money, credit, property, financial assistance or other thing of value given in response to a solicitation by telephone, including, but not limited to, a payment or promise to pay in consideration for a performance, event or sale of goods or services. The term does not include volunteer services, government grants or contracts or a payment by members of any organization of membership fees, dues, fines or assessments or for services rendered by the organization to those persons, if:

(a) The fees, dues, fines, assessments or services confer a bona fide right, privilege, professional standing, honor or other direct benefit upon the member; and

(b) Membership in the organization is not conferred solely in consideration for making a donation in response to a solicitation.

6. "Goods or services" means any property, tangible or intangible, real, personal or mixed, and any other article, commodity or thing of value.

7. "Premium" includes any prize, bonus, award, gift or any other similar inducement or incentive to purchase.

8. "Recovery service" means a business or other practice whereby a person represents or implies that he will, for a fee, recover any amount of money that a consumer has provided to a seller or salesman pursuant to a solicitation governed by the provisions of this chapter.

9. "Salesman" means any person:

(a) Employed or authorized by a seller to sell, or to attempt to sell, goods or services by telephone;

(b) Retained by a seller to provide consulting services relating to the management or operation of the seller's business; or

(c) Who communicates on behalf of a seller with a consumer:

(1) In the course of a solicitation by telephone; or

(2) For the purpose of verifying, changing or confirming an order,

➥ except that a person is not a salesman if his only function is to identify a consumer by name only and he immediately refers the consumer to a salesman.

10. Except as otherwise provided in subsection 11, "seller" means any person who, on his own behalf, causes or attempts to cause a solicitation by telephone to be made through the use of one or more salesmen or any automated dialing announcing device under any of the following circumstances:

(a) The person initiates contact by telephone with a consumer and represents or implies:

(1) That a consumer who buys one or more goods or services will receive additional goods or services, whether or not of the same type as purchased, without further cost, except for actual postage or common carrier charges;

(2) That a consumer will or has a chance or opportunity to receive a premium;

(3) That the items for sale are gold, silver or other precious metals, diamonds, rubies, sapphires or other precious stones, or any interest in oil, gas or mineral fields, wells or exploration sites or any other investment opportunity;

(4) That the product offered for sale is information or opinions relating to sporting events;

(5) That the product offered for sale is the services of a recovery service; or

(6) That the consumer will receive a premium or goods or services if he makes a donation;

(b) The solicitation by telephone is made by the person in response to inquiries from a consumer generated by a notification or communication sent or delivered to the consumer that represents or implies:

(1) That the consumer has been in any manner specially selected to receive the notification or communication or the offer contained in the notification or communication;

(2) That the consumer will receive a premium if the recipient calls the person;

(3) That if the consumer buys one or more goods or services from the person, the consumer will also receive additional or other goods or services, whether or not the same type as purchased, without further cost or at a cost that the person represents or implies is less than the regular price of the goods or services;

(4) That the product offered for sale is the services of a recovery service; or

(5) That the consumer will receive a premium or goods or services if he makes a donation; or

(c) The solicitation by telephone is made by the person in response to inquiries generated by advertisements that represent or imply that the person is offering to sell any:

(1) Gold, silver or other metals, including coins, diamonds, rubies, sapphires or other stones, coal or other minerals or any interest in oil, gas or other mineral fields, wells or exploration sites, or any other investment opportunity;

(2) Information or opinions relating to sporting events; or

(3) Services of a recovery service.

11. ”Seller” does not include:

(a) A person licensed pursuant to chapter 90 of NRS when soliciting offers, sales or purchases within the scope of his license.

(b) A person licensed pursuant to chapter 119A, 119B, 624, 645 or 696A of NRS when soliciting sales within the scope of his license.

(c) A person licensed as an insurance broker, agent or solicitor when soliciting sales within the scope of his license.

(d) Any solicitation of sales made by the publisher of a newspaper or magazine or by an agent of the publisher pursuant to a written agreement between the agent and publisher.

(e) A broadcaster soliciting sales who is licensed by any state or federal authority, if the solicitation is within the scope of the broadcaster's license.

(f) A person who solicits a donation from a consumer when:

(1) The person represents or implies that the consumer will receive a premium or goods or services with an aggregated fair market value of 2 percent of the donation or $50, whichever is less; or

(2) The consumer provides a donation of $50 or less in response to the solicitation.

(g) A charitable organization which is registered or approved to conduct a lottery pursuant to chapter 462 of NRS.

(h) A public utility or motor carrier which is regulated pursuant to chapter 704 or 706 of NRS, or by an affiliate of such a utility or motor carrier, if the solicitation is within the scope of its certificate or license.

(i) A utility which is regulated pursuant to chapter 710 of NRS, or by an affiliate of such a utility.

(j) A person soliciting the sale of books, recordings, video cassettes, software for computer systems or similar items through:

(1) An organization whose method of sales is governed by the provisions of Part 425 of Title 16 of the Code of Federal Regulations relating to the use of negative option plans by sellers in commerce;

(2) The use of continuity plans, subscription arrangements, arrangements for standing orders, supplements, and series arrangements pursuant to which the person periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received; or

(3) An arrangement pursuant to which the person ships merchandise to a consumer who has consented in advance to receive the merchandise and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received.

(k) A person who solicits sales by periodically publishing and delivering a catalog to consumers if the catalog:

(1) Contains a written description or illustration of each item offered for sale and the price of each item;

(2) Includes the business address of the person;

(3) Includes at least 24 pages of written material and illustrations;

(4) Is distributed in more than one state; and

(5) Has an annual circulation by mailing of not less than 250,000.

(l) A person soliciting without the intent to complete and who does not complete, the sales transaction by telephone but completes the sales transaction at a later face-to-face meeting between the solicitor and the consumer, if the person, after soliciting a sale by telephone, does not cause another person to collect the payment from or deliver any goods or services purchased to the consumer.

(m) Any commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurer subject to regulation by an official or agency of this State or of the United States, if the solicitation is within the scope of the certificate or license held by the entity.

(n) A person holding a certificate of authority issued pursuant to chapter 452 of NRS when soliciting sales within the scope of the certificate.

(o) A person licensed pursuant to chapter 689 of NRS when soliciting sales within the scope of his license.

(p) A person soliciting the sale of services provided by a ~~[community antenna television company]~~ ***video service provider*** subject to regulation pursuant to chapter 711 of NRS.

(q) A person soliciting the sale of agricultural products, if the solicitation is not intended to and does not result in a sale of more than $100 that is to be delivered to one address. As used in this paragraph, "agricultural products" has the meaning ascribed to it in NRS 587.290.

(r) A person who has been operating, for at least 2 years, a retail business establishment under the same name as that used in connection with the solicitation of sales by telephone if, on a continuing basis:

(1) Goods are displayed and offered for sale or services are offered for sale and provided at the person's business establishment; and

(2) At least 50 percent of the person's business involves the buyer obtaining such goods or services at the person's business establishment.

(s) A person soliciting only the sale of telephone answering services to be provided by the person or his employer.

(t) A person soliciting a transaction regulated by the Commodity Futures Trading Commission, if:

(1) The person is registered with or temporarily licensed by the Commission to conduct that activity pursuant to the Commodity Exchange Act *,* ~~[(]~~ 7 U.S.C. §§ 1 et seq. *;* ~~[),]~~ and

(2) The registration or license has not expired or been suspended or revoked.

(u) A person who contracts for the maintenance or repair of goods previously purchased from the person:

(1) Making the solicitation; or

(2) On whose behalf the solicitation is made.

(v) A person to whom a license to operate an information service or a nonrestricted gaming license, which is current and valid, has been issued pursuant to chapter 463 of NRS when soliciting sales within the scope of his license.

(w) A person who solicits a previous customer of the business on whose behalf the call is made if the person making the call:

(1) Does not offer the customer any premium in connection with the sale;

(2) Is not selling an investment or an opportunity for an investment that is not registered with any state or federal authority; and

(3) Is not regularly engaged in telephone sales.

(x) A person who solicits the sale of livestock.

(y) An issuer which has a class of securities that is listed on the New York Stock Exchange, the American Stock Exchange or the National Market System of the National Association of Securities Dealers Automated Quotation System.

(z) A subsidiary of an issuer that qualifies for exemption pursuant to paragraph (y) if at least 60 percent of the voting power of the shares of the subsidiary is owned by the issuer.

Sec. 105.1. For the purposes of sections 105.3 to 106.2, inclusive, of this act, the Legislature hereby finds and declares that:

1. There is a need to balance the goal of providing children with the benefits and opportunities available on the Internet against the compelling need and duty to protect children from contact with sexual predators.

2. Sexual predators use Internet and network sites, including chat rooms and social networking websites, to locate, approach and befriend children, to acquire personal information about children and to prey on children by engaging in sexually explicit conversations, requesting photographs and attempting to lure children into meeting with them in person.

3. According to the United States Attorney General, one in five children has been approached sexually on the Internet.

4. The explosive growth of chat rooms and social networking websites has increased the difficulty of monitoring the Internet activities of children and protecting children from sexual predators, particularly when children use the Internet without supervision.

5. Providers of Internet service and the owners and operators of chat rooms and social networking websites are well-situated to help parents and guardians in the on-going effort to guard against sexual predators who misuse Internet technology as a tool to prey on and victimize children.

Sec. 105.2. Chapter 603 of NRS is hereby amended by adding thereto the provisions set forth as sections 105.3 to 106.2, inclusive, of this act.

Sec. 105.3. ***As used in sections 105.3 to 106.2, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 105.4 to 105.7, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 105.4. ***"Child" means a person who is less than 18 years of age.***

Sec. 105.5. ***"Electronic mail" has the meaning ascribed to it in NRS 41.715.***

Sec. 105.6. ***1. "Internet or any other computer network" means:***

(a) The computer network commonly known as the Internet and any other local, regional or global computer network that is similar to or is a predecessor or successor of the Internet; and

(b) Any identifiable site on the Internet or such other computer network.

2. The term includes, without limitation:

(a) A website or other similar site on the World Wide Web;

(b) A site that is identifiable through a Uniform Resource Location;

(c) A site on a computer network that is owned, operated, administered or controlled by a provider of Internet service;

(d) An electronic bulletin board;

(e) A list server;

(f) A newsgroup; or

(g) A chat room.

Sec. 105.7. ***"Provider of Internet service" or "provider" means any person who, for a fee or other consideration, provides subscribers with access to the Internet or any other computer network.***

Sec. 105.8. ***For the purposes of sections 105.3 to 106.2, inclusive, of this act, a person has "reasonable cause to believe" if, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, a reasonable person would believe, under those facts and circumstances, that an act, transaction, event, situation or condition exists, is occurring or has occurred.***

Sec. 106. ***1. If a provider of Internet service knows or has reasonable cause to believe that a subscriber resides within this State, the provider shall make available to the subscriber a product or service which enables the subscriber to regulate a child's use of the Internet service provided to the subscriber*** ~~[.]~~ ***if such a product or service is reasonably and commercially available for the technology utilized by the subscriber to access the Internet service. The product or service must , subject to such availability, enable the subscriber to:***

(a) Block all access to the Internet;

(b) Block access to specific websites or domains disapproved by the subscriber;

(c) Restrict access exclusively to specific websites or domains approved by the subscriber; and

(d) Allow the subscriber to monitor a child's use of the Internet service by providing a report to the subscriber of the specific websites or domains that the child has visited or has attempted to visit but could not access because the websites or domains were blocked or restricted by the subscriber.

2. For the purposes of subsection 1, a provider of Internet service shall be deemed to know that a subscriber resides within this State if the subscriber identifies Nevada as his place of residence at the time of subscription.

3. ~~[A]~~ If a product or service described in subsection 1 is reasonably and commercially available for the technology utilized by the subscriber to access the Internet service, the provider of Internet service:

(a) Shall provide to the subscriber, at the time of subscription, notice of the availability of the product or service described in subsection 1. The notice must be provided to the subscriber by electronic mail or in a written form through another reasonable means.

(b) May make the product or service described in subsection 1 available to the subscriber either directly or through a third-party vendor. The provider or third-party vendor may charge the subscriber a fee for the product or service.

Sec. 106.2. ***1. Any violation of sections 105.3 to 106.2, inclusive, of this act constitutes a deceptive trade practice ~~[for the purposes of the civil and administrative remedies and penalties set forth in]~~ subject to NRS 598.0903 to 598.0999, inclusive.***

2. The remedies, duties and prohibitions set forth in sections 105.3 to 106.2, inclusive, of this act are not exclusive and are in addition to any other remedies, duties and prohibitions provided by law.

Sec. 106.4. NRS 603.010 is hereby amended to read as follows:

603.010 As used in ~~[this chapter]~~ ***NRS 603.010 to 603.090, inclusive,*** unless the context otherwise requires, the words and terms defined in NRS 603.020 and 603.030, have the meanings ascribed to them in those sections.

Sec. 106.6. NRS 603.090 is hereby amended to read as follows:

603.090 The civil remedies provided in ~~[this chapter:]~~ ***NRS 603.010 to 603.090, inclusive:***

1. Do not preclude the prosecution of a defendant under the penal laws of this State.

2. Are in addition to any rights or remedies to which the owner of a proprietary program or data stored in a computer is entitled under the common law.

Sec. 106.8. NRS 618.880 is hereby amended to read as follows:

618.880 1. The Division shall adopt regulations establishing standards and procedures for the operation of cranes, including, without limitation, regulations requiring the:

(a) Establishment and implementation of site safety plans and procedures for the erection and dismantling of tower cranes;

(b) Establishment of a clear zone around the erection, dismantling or other highly hazardous lifts with a crane;

(c) Annual certification of the mechanical lifting parts of the crane; and

(d) Certification of tower cranes each time a tower crane is erected and additional annual certifications of tower cranes while they continue to be in use.

2. Except as otherwise provided in subsection 3:

(a) The Division shall adopt regulations requiring the establishment and implementation of programs for the certification of all persons who operate:

(1) Tower cranes; or

(2) Mobile cranes having a usable boom length of 25 feet or greater or a maximum machine rated capacity of 15,000 pounds or greater.

(b) A person shall not operate a tower crane or a mobile crane described in subparagraph (2) of paragraph (a) unless the person holds certification as a crane operator issued pursuant to this subsection for the type of crane being operated.

(c) An applicant for certification as a crane operator must hold a certificate which:

(1) Is issued by an organization whose program of certification for crane operators:

(I) Is accredited by the National Commission for Certifying Agencies or an equivalent accrediting body approved by the Division; or

(II) Meets other criteria established by the Division; and

(2) Certifies that the person has met the standards to be a crane operator established by the American Society of Mechanical Engineers in its standards B30.3, B30.4 or B30.5 as adopted by regulation of the Division.

3. The provisions of subsection 2 do not apply to a person who:

(a) Is an employee of a utility while the person is engaged in work for or at the direction of the utility;

(b) Operates an electric or utility line truck that is regulated pursuant to 29 C.F.R. § 1910.269 or 29 C.F.R. Part 1926, Subpart V; or

(c) Operates an aerial or lifting device, whether or not self-propelled, that is designed and manufactured with the specific purpose of lifting one or more persons in a bucket or basket or on a ladder or platform and holding those persons in the lifted position while they perform tasks. Such devices include, without limitation:

(1) A bucket truck or lift;

(2) An aerial platform;

(3) A platform lift; or

(4) A scissors lift.

4. As used in this section, “utility” means any public or private utility, whether or not the utility is subject to regulation by the Public Utilities Commission of Nevada, that provides, at wholesale or retail:

(a) Electric service;

(b) Gas service;

(c) Water or sewer service;

(d) Telecommunication service, including, without limitation, local exchange service, long distance service and personal wireless service; or

(e) Television service, including, without limitation, community antenna television ***, cable television and other video*** service.

Sec. 107. NRS 624.218 is hereby amended to read as follows:

624.218 1. The Board shall adopt by regulation a classification of licensing for persons who construct or improve ~~[community antenna television systems.]~~ ***video service networks.*** Except as otherwise provided in subsection 2, a person who engages in such construction, alteration or improvement must be licensed in this classification and may not be required to be licensed in any other classification.

2. The licensing requirements adopted pursuant to subsection 1 do not apply to a person who is engaged solely in the alteration or repair of antennae used by a community antenna television system.

3. As used in this section, "video service network" has the meaning ascribed to it in section 26 of this act.

Sec. 108. 1. NRS 318.1193, 318.1194, 354.598811, 711.185, 711.190, 711.200, 711.210, 711.230 and 711.250 are hereby repealed.

2. Section 2.290 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, at page 63, is hereby repealed.

3. Section 2.320 of the Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 612, is hereby repealed.

4. Section 2.280 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, at page 300, is hereby repealed.

5. Section 2.350 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, as amended by chapter 51, Statutes of Nevada 2001, at page 460, is hereby repealed.

6. Section 2.300 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, at page 410, is hereby repealed.

7. Section 2.330 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1405, is hereby repealed.

8. Section 2.300 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, at page 1219, is hereby repealed.

9. Section 2.320 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, at page 466, is hereby repealed.

10. Section 2.300 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, as amended by chapter 184, Statutes of Nevada 1985, at page 645, is hereby repealed.

Sec. 109. On or before October 1, 2007, the Secretary of State shall adopt any regulations that are necessary to carry out the provisions of this act.

Sec. 110. This act becomes effective upon passage and approval.

LEADLINES OF REPEALED SECTIONS

318.1193 Facilities for television: Limitation on organization if area includes existing service.

318.1194 Facilities for television: Approval of electors required in certain districts for franchise for community antenna television system.

354.598811 Limitations on fees applicable to public utilities: "Community antenna television company" defined.

711.185 Governing body may grant exclusive franchise.

711.190 Franchise granted by city or county: Conditions; requirements.

711.200 Fees for franchise.

711.210 Renewal of franchise.

711.230 Considerations in granting franchise.

711.250 Adoption of ordinance to establish procedure to resolve complaints of subscribers; notice.

Caliente City Charter Sec. 2.290 Powers of City Council: Television franchises.

Carlin City Charter Sec. 2.320 Powers of Board of Councilmen: Television franchises.

Carson City Charter Sec. 2.280 Power of Board: Television franchises.

Elko City Charter Sec. 2.350 Powers of City Council: Television franchises.

Henderson City Charter Sec. 2.300 Powers of City Council: Television franchises.

Las Vegas City Charter Sec. 2.330 Powers of City Council: Television franchises.

North Las Vegas City Charter Sec. 2.300 Powers of City Council: Television franchises.

Wells City Charter Sec. 2.320 Powers of Board of Councilmen: Television franchises.

Yerington City Charter Sec. 2.300 Powers of City Council: Franchises for television and cable television.

Assemblyman Oceguera moved that the Assembly concur in the Senate Amendment No. 702 to Assembly Bill No. 526.

Remarks by Assemblyman Oceguera.

Motion carried.

Amendment No. 991.

AN ACT relating to information technology; revising provisions governing the regulation of community antenna television, cable television and other video service; establishing a new regulatory structure for video service providers; requiring the Secretary of State to perform certain duties under the new regulatory structure; limiting the regulatory powers of local governments regarding video service providers; providing fees; requiring providers of Internet service to offer, under certain circumstances, products or services which enable subscribers to regulate and monitor a child's use of the Internet; providing remedies and penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill enacts various provisions relating to community antenna television, cable television, video service, Internet service and other information technology.

Under existing law, a local government has the authority to grant local franchises for the operation of a community antenna or cable television system within its jurisdiction. Because each local government has independent authority to grant its own franchises, a cable operator that wants to operate in multiple jurisdictions must negotiate a separate local franchise with each local government. (Chapter 711 of NRS)

To promote competition in the cable industry, the federal Cable Act prohibits a local government from granting an exclusive franchise or unreasonably refusing to grant competitive franchises. The federal Cable Act also prohibits a local government from imposing a franchise fee that exceeds 5 percent of a cable operator's gross revenue. (47 U.S.C. §§ 541, 542)

This bill repeals the existing statutory scheme of regulating video service through local franchises and replaces it with a statutory scheme that is intended to promote more competition in the market for such service. This bill applies to community antenna television companies, cable operators and other video service providers. However, this bill allows an existing franchise holder to continue operating under its local franchise until that franchise expires, and this bill also allows a local government in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties) to renew or extend the term of a local franchise.

Under this bill, a video service provider must obtain a certificate of authority from the Secretary of State, which acts as a state-issued franchise to provide video service within the service areas designated in the certificate. This bill establishes various standards and practices for video service providers, including requirements for providing local governments with community access channels for public, educational and governmental programming.

This bill preempts most local regulation of video service providers. However, this bill allows a local government to manage the activities of video service providers within any public right-of-way or highway, including inspecting any construction or repair work. This bill also allows a local government to impose a franchise fee that does not exceed 5 percent of a video service provider's gross revenue.

Finally, this bill requires a provider of Internet service, under certain circumstances, to make available to subscribers in this State products or services which enable the subscribers to block, restrict and monitor a child's Internet activities. This bill authorizes the provider to charge a fee to those subscribers who elect to use the products or services. A provider of Internet service that fails to comply with the requirements commits a deceptive trade practice and is subject to the procedures for administrative enforcement and the remedies and penalties under the Deceptive Trade Practice Act. (NRS 598.0903-598.0999)

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

Section 1. NRS 704.030 is hereby amended to read as follows:

704.030 "Public utility" or "utility" does not include:

1. Persons engaged in the production and sale of natural gas, other than sales to the public, or engaged in the transmission of natural gas other than as a common carrier transmission or distribution line or system.

2. Persons engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this State if:

(a) They serve 25 persons or less; and

(b) Their gross sales for water or services for the disposal of sewage, or both, amounted to $5,000 or less during the immediately preceding 12 months.

3. Persons not otherwise engaged in the business of furnishing, producing or selling water or services for the disposal of sewage, or both, but who sell or furnish water or services for the disposal of sewage, or both, as an accommodation in an area where water or services for the disposal of sewage, or both, are not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water or services for the disposal of sewage, or both, for compensation, to persons within the political subdivision.

4. Persons who are engaged in the production and sale of energy, including electricity, to public utilities, cities, counties or other entities which are reselling the energy to the public.

5. Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.

6. Persons who are engaged in the sale or use of special fuel as defined in NRS 366.060.

7. Persons who provide water from water storage, transmission and treatment facilities if those facilities are for the storage, transmission or treatment of water from mining operations.

8. Persons who are video service providers, as defined in section 27 of this act, except for those operations of the video service provider which consist of providing a telecommunication service to the public, in which case the video service provider is a public utility only with regard to those operations of the video service provider which consist of providing a telecommunication service to the public.

Sec. 2. Chapter 711 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 60, inclusive, of this act.

Sec. 3. ***"Agreement" means any agreement or contract of any kind.***

Sec. 4. ***"Cable operator" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.***

Sec. 5. ***"Cable service" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.***

Sec. 6. ***"Cable system" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.***

Sec. 7. ***"Certificate of authority" or "certificate" means a certificate issued by the Secretary of State pursuant to this chapter which grants the holder of the certificate a state-issued franchise to provide video service and construct and operate a video service network within the service areas designated in the certificate.***

Sec. 8. ***"Commercial mobile service provider" means a person who provides commercial mobile service, as defined in 47 U.S.C. § 332(d), as that section existed on January 1, 2007.***

Sec. 9. ***"Franchise" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.***

Sec. 10. ***"Franchise fee" means a franchise fee imposed by a local government on a video service provider for the privilege of providing video service.***

Sec. 11. ***1. "Gross revenue" means:***

(a) Any revenue a video service provider receives from its subscribers for providing video service to those subscribers, as determined in accordance with generally accepted accounting principles, except for revenue excluded pursuant to subsection 3; and

(b) Any other consideration a video service provider receives from its subscribers for providing video service when it is received in a transaction that would evade imposition of a franchise fee if such consideration is not included in revenue, except for revenue excluded pursuant to subsection 3.

2. The term includes, without limitation:

(a) Recurring monthly charges;

(b) Event-based charges, including, without limitation, charges for pay per view and video on demand;

(c) Charges for the rental of set-top boxes and other equipment;

(d) Service charges, including, without limitation, charges for activation, installation, repair and maintenance;

(e) Administrative charges, including, without limitation, charges for service orders and service termination; and

(f) The amount of any revenue received by a video service provider for providing video service when such service is a component of a bundle of services or products sold for a single price, but only to the extent the revenue received by the video service provider for the bundle of services or products is proportionately allocated among each of the components.

3. The term does not include:

(a) Revenue not actually received, regardless of when it is billed.

(b) Refunds, rebates or discounts made to subscribers.

(c) Revenue from providing service other than video service, including, without limitation, revenue from providing:

(1) Telecommunication service; or

(2) Information service that is not video service.

(d) Any fee imposed on the video service provider that is passed through to and paid by subscribers, including, without limitation, a franchise fee.

(e) Revenue from the sale of video service to any person who purchases the video service for resale and who, upon resale, is required to pay a franchise fee pursuant to this chapter or the terms of a local franchise.

(f) Any tax of general applicability.

(g) The fair market value of free or reduced-cost video service provided without set-off or exchange to any person who is entitled or permitted to receive such service pursuant to this chapter or federal law.

(h) Late payment fees collected from subscribers.

Sec. 12. ***"Holder of a certificate" or "holder" means a video service provider that has been issued a certificate of authority pursuant to this chapter.***

Sec. 13. ***"Incumbent cable operator" means any cable operator, community antenna television company or other video service provider that, on the effective date of this act, is providing video service in this State pursuant to a local franchise.***

Sec. 14. ***"Information service" has the meaning ascribed to it in 47 U.S.C. § 153(20), as that section existed on January 1, 2007.***

Sec. 15. ***"Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § 230(f)(2), as that section existed on January 1, 2007.***

Sec. 16. ***"Jurisdiction of a local government" means:***

1. In the case of a city, the corporate limits of the city.

2. In the case of a county, the unincorporated area of the county.

Sec. 17. ***1. "Local franchise" means any franchise, agreement, permit, license or similar authorization, regardless of its name, which:***

(a) Permits a person to construct or operate a cable system, community antenna television system or video service network within the jurisdiction of a local government;

(b) Was issued, granted, approved or renewed by the governing body of the local government before the effective date of this act pursuant to the authority of any federal, state or local law in effect at the time of the issuance, grant, approval or renewal; and

(c) On the effective date of this act, is legally effective and unexpired.

2. The term includes, without limitation, an unexpired local franchise that a local government in a county whose population is less than 100,000 renews or extends the term of pursuant to sections 32 and 32.5 of this act.

Sec. 18. ***"Local law" means any charter, code, ordinance, regulation or other law of a local government.***

Sec. 19. ***"Multichannel video programming distributor" has the meaning ascribed to it in 47 U.S.C. § 522, as that section existed on January 1, 2007.***

Sec. 20. ***"Service area" means the geographical territory in this State within which a video service provider is authorized to provide video service pursuant to a certificate of authority or local franchise.***

Sec. 21. ***1. "Subscriber" means any person in this State who purchases video service.***

2. The term does not include any person who purchases video service for resale and who, upon resale, is required to pay a franchise fee pursuant to this chapter or the terms of a local franchise.

Sec. 22. ***"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. 23. ***"Telecommunication provider" means any person required to obtain from the Public Utilities Commission of Nevada a certificate of public convenience and necessity pursuant to NRS 704.330 to provide telecommunication service.***

Sec. 24. ***"Telecommunication 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. 25. ***1. "Video service" means the provision of multichannel video programming generally considered comparable to video programming delivered by a television broadcast station, cable service or other digital television service, whether provided as part of a tier, on-demand or on a per-channel basis, without regard to the technology used to deliver the video service, including, without limitation, Internet protocol technology or any successor technology.***

2. The term includes, without limitation:

(a) Cable service; and

(b) Video service delivered by a community antenna television system.

3. The term does not include:

(a) Any video content provided solely as part of, and through, a service which enables users to access content, information, electronic mail or other services that are offered via the public Internet.

(b) Direct broadcast satellite service.

(c) Any wireless multichannel video programming provided by a commercial mobile service provider.

Sec. 26. ***1. "Video service network" means a wireline facility, or any component thereof, which is:***

(a) Located in this State;

(b) Constructed in whole or in part in, on, under or over any public right-of-way or highway; and

(c) Used to provide video service.

2. The term includes, without limitation:

(a) A cable system; and

(b) A community antenna television system.

Sec. 27. ***1. "Video service provider" or "provider" means any person that provides or offers to provide video service over a video service network to subscribers in this State.***

2. The term includes, without limitation:

(a) An incumbent cable operator or other cable operator;

(b) A community antenna television company; and

(c) A multichannel video programming distributor.

Sec. 28. ***This chapter occupies the entire field of franchising and regulation of video service and, except as otherwise provided in sections 45 and 46 of this act, preempts any local law or agreement with a local government that:***

1. Requires a person to obtain or hold from a local government any franchise, permit, license or similar authorization, regardless of its name, to provide video service or to construct or operate a video service network, unless the person is an incumbent cable operator which holds an unexpired local franchise and which has elected pursuant to sections 32 and 32.5 of this act to continue to operate within its service area pursuant to the local franchise.

2. Regulates the provision of video service or the construction or operation of a video service network if such regulation conflicts or is otherwise inconsistent with the provisions of this chapter or the purposes and objectives of this chapter.

3. Requires a video service provider to pay any fee to a local government if the payment of such a fee conflicts or is otherwise inconsistent with the provisions of this chapter or the purposes and objectives of this chapter.

Sec. 29. ***1. For the purpose of bringing about fair and reasonable competition for video service, the Secretary of State has the exclusive authority to issue a certificate of authority to a person to provide video service and construct and operate a video service network in any service area in this State.***

2. The Secretary of State:

(a) Shall carry out the provisions of this chapter; and

(b) May adopt regulations necessary for the issuance, modification and termination of a certificate of authority, including, without limitation, prescribing any forms related to the application process.

3. On or after the effective date of this act, a local government does not have the authority to:

(a) Issue, grant, approve or renew any franchise, agreement, permit, license or similar authorization, regardless of its name, for the privilege of:

(1) Providing video service within the jurisdiction of the local government; or

(2) Except as otherwise provided in sections 45 and 46 of this act, constructing or operating a video service network within the jurisdiction of the local government,

➥ except that a local government in a county whose population is less than 100,000 may renew or extend the term of an unexpired local franchise of an incumbent cable operator which has elected pursuant to sections 32 and 32.5 of this act to continue to operate within its service area pursuant to the local franchise;

(b) Impose any build-out requirements, investment requirements or other requirements relating to infrastructure, facilities or deployment of equipment for the privilege of providing video service or constructing or operating a video service network within the jurisdiction of the local government; or

(c) Except as otherwise provided in sections 45 and 46 of this act, require the payment of any application, document, franchise, service or other fee, tax, charge or assessment for the privilege of providing video service or constructing or operating a video service network within the jurisdiction of the local government.

Sec. 29.5. ***1. In carrying out the provisions of this chapter, the Secretary of State shall charge and collect the fees set forth in this section.***

2. Except as otherwise provided in subsection 3, the filing fee for accepting any application or notice pursuant to the provisions of this chapter is $1,000.

3. The filing fee for accepting an original application for a certificate of authority pursuant to sections 33 and 34 of this act:

(a) Is $250 for a service area located entirely within the territorial boundaries of a county whose population is less than 50,000.

(b) Is $500 for a service area located in whole or in part within the territorial boundaries of a county whose population is 50,000 or more but less than 100,000, unless the provisions of paragraph (c) apply.

(c) Is $1,000 for a service area located in whole or in part within a county whose population is 100,000 or more.

4. A person may elect to apply for a certificate of authority that permits, but does not require, the person to provide video service within one or more service areas located anywhere in this State as designated in the application and affidavit filed by the person pursuant to section 33 of this act. If a person applies for such a certificate of authority, the certification fee for issuing the certificate of authority to the person pursuant to sections 33 and 34 of this act is $25,000. The Secretary of State may charge and collect the certification fee pursuant to this subsection only once from each such person.

5. If a person elects not to apply for a certificate of authority in accordance with subsection 4, the certification fee for issuing a certificate of authority to the person pursuant to sections 33 and 34 of this act or for

issuing an amended certificate of authority to the person pursuant to section 35 of this act:

(a) Is $250 for a service area located entirely within the territorial boundaries of a town, township or city whose population is less than 1,000, regardless of the population of the county.

(b) Is $2,500 for a service area located entirely within the territorial boundaries of a town, township or city whose population is 1,000 or more but less than 50,000, regardless of the population of the county.

(c) Is $2,500 for a service area located entirely within the territorial boundaries of a county whose population is less than 50,000, unless the provisions of paragraph (a) or (b) apply.

(d) Is $15,000 for a service area located in whole or in part within the territorial boundaries of a county whose population is 50,000 or more but less than 100,000, unless the provisions of paragraph (a), (b) or (e) apply.

(e) Is $25,000 for a service area located in whole or in part within the territorial boundaries of a county whose population is 100,000 or more, unless the provisions of paragraph (a) or (b) apply.

6. The Secretary of State shall charge and collect the fees set forth in this section based on:

(a) The information provided in the application and affidavit filed by the person pursuant to paragraph (a) of subsection 2 of section 33 of this act; and

(b) The estimated population of each town, township, city and county in this State as set forth in the most recent annual report issued by the Department of Taxation pursuant to NRS 360.283.

7. The fees imposed by this section may not be passed through to and collected from subscribers of video service.

Sec. 30. ***The provisions of this chapter must not be interpreted to:***

1. Authorize the Secretary of State to exercise oversight of video service providers except as provided in this chapter.

2. Prevent a telecommunication provider from exercising any rights or authority that the provider has as a public utility under federal or state law.

Sec. 31. ***Except as otherwise provided in this chapter, a person shall not act as a video service provider or construct or operate a video service network in any service area unless the person has obtained a certificate of authority for that service area.***

Sec. 32. ***1. If, on the effective date of this act, an incumbent cable operator is providing video service within a service area pursuant to a local franchise, the incumbent cable operator may elect to:***

(a) Continue to operate within that service area pursuant to the local franchise in accordance with section 32.5 of this act; or

(b) Terminate the local franchise within that service area by applying for and obtaining a certificate of authority pursuant to this section.

2. To elect to terminate a local franchise within a service area, an incumbent cable operator must, not later than 6 months after the effective

date of this act, apply for a certificate of authority for that service area in the same manner as any other video service provider. If the incumbent cable operator makes such an election and obtains a certificate of authority for that service area:

(a) The local franchise for that service area is deemed to be terminated by operation of law on the date on which the Secretary of State issues the certificate of authority;

(b) Not later than 3 business days after the date on which the Secretary of State issues the certificate of authority, the incumbent cable operator shall file with the clerk of the local government which granted the franchise a written declaration that the incumbent cable operator has obtained a certificate of authority and that the local franchise for that service area has been terminated by operation of law; and

(c) The incumbent cable operator shall operate within that service area thereafter subject only to the same requirements that apply to any other holder of a certificate.

Sec. 32.5. ***1. Except as otherwise provided in subsection 2, if an incumbent cable operator elects pursuant to section 32 of this act to continue to operate within a service area pursuant to a local franchise:***

(a) The incumbent cable operator must comply with the local franchise and all applicable provisions of this chapter while the local franchise is in effect for that service area;

(b) The local franchise is not effective for that service area on or after the date on which the local franchise expires; and

(c) The local government may not renew or extend the term of the local franchise for that service area.

➥ To operate within that service area on or after the date on which the local franchise expires, the incumbent cable operator must apply for and obtain a certificate of authority in the same manner as any other video service provider. If the incumbent cable operator is issued a certificate of authority for that service area while operating pursuant to the local franchise, the certificate does not become effective until the date on which the local franchise expires.

2. If an incumbent cable operator elects pursuant to section 32 of this act to continue to operate within a service area pursuant to a local franchise and the service area is located entirely within the territorial boundaries of a county whose population is less than 100,000:

(a) The incumbent cable operator must comply with the local franchise and all applicable provisions of this chapter while the local franchise is in effect for that service area; and

(b) The local government may renew or extend the term of the local franchise for that service area, provided that the terms and conditions of the renewal or extension do not conflict with or are not otherwise inconsistent with the provisions of this chapter or the purposes and objectives of this chapter.

➥ To operate within that service area on or after the date on which the local franchise expires without renewal or extension, the incumbent cable operator must apply for and obtain a certificate of authority in the same manner as any other video service provider. If the incumbent cable operator is issued a certificate of authority for that service area while operating pursuant to the local franchise, the certificate does not become effective until the date on which the local franchise expires without renewal or extension.

Sec. 33. ***1. To obtain a certificate of authority, a person must:***

(a) File with the Secretary of State an application and affidavit which are signed by one of the principal executive officers or general partners of the applicant and which comply with the provisions of this section; and

(b) Pay any fee required by section 29.5 of this act.

2. The application and affidavit must be in the form required by the Secretary of State and must contain only the following:

(a) A description of each service area designated by the applicant in which the applicant intends to provide video service and a map of each such service area that shows the territorial boundaries of each local government located, in whole or in part, within the service area.

(b) The location of the principal place of business of the applicant and the names of the principal executive officers or general partners of the applicant.

(c) Certifications that the applicant:

(1) Agrees to comply with all applicable federal and state laws and regulations;

(2) Agrees to comply with all generally applicable, nondiscriminatory local laws regarding the use and occupation of any public right-of-way or highway in the construction, operation, maintenance and repair of a video service network, including, without limitation, any local laws enacted pursuant to the police powers of the local government in which the video service network is located; and

(3) Has filed or will timely file with the Federal Communications Commission all forms required by that agency before offering video service.

3. If the Secretary of State determines that the application and affidavit are incomplete or otherwise deficient, the Secretary of State shall provide written notice to the applicant not later than 15 days after the date on which the application and affidavit are filed. The written notice must:

(a) Explain the incompleteness or deficiency in detail; and

(b) Identify with specificity the information or other items that are necessary to complete the application and affidavit properly.

4. The applicant shall provide a copy of the application and affidavit to the governing body of each local government located, in whole or in part, within each service area designated in the application. The applicant shall provide such a copy:

(a) Not later than 3 business days after the date on which the application and affidavit are first filed with the Secretary of State; and

(b) If a revised application and affidavit are filed, not later than 3 business days after the date on which the revised application and affidavit are filed with the Secretary of State.

5. The copy of the application and affidavit provided by the applicant to a governing body is for informational purposes only, and the governing body may not:

(a) Vote on or take other official action regarding the application and affidavit; or

(b) Require the applicant to obtain the approval of the governing body regarding the application and affidavit.

Sec. 34. ***1. Not later than 20 days after the date on which an applicant files a completed application and affidavit pursuant to section 33 of this act and pays any fee required by section 29.5 of this act, the Secretary of State shall issue a certificate of authority to the applicant.***

2. The certificate of authority issued by the Secretary of State is a state-issued franchise granting the holder of the certificate with the authority to:

(a) Provide video service in each service area designated in the application and affidavit filed with the Secretary of State; and

(b) Construct and operate a video service network in compliance with the provisions of this chapter and all local laws that are not in conflict or otherwise inconsistent with the provisions of this chapter or the purposes and objectives of this chapter.

3. The Secretary of State may not condition or limit a certificate of authority by imposing on the holder of the certificate any obligations or requirements that are not authorized by the provisions of this chapter, including, without limitation:

(a) Any build-out requirements, investment requirements or other requirements relating to infrastructure, facilities or deployment of equipment; or

(b) Any requirements to pay any application, document, franchise, service or other fee, tax, charge or assessment that is not authorized by the provisions of this chapter.

Sec. 35. ***1. If the holder of a certificate wants to add one or more new service areas to the certificate, the holder must:***

(a) File with the Secretary of State an application for an amendment to the certificate to add the new service areas; and

(b) Pay any fee required by section 29.5 of this act.

2. The application for an amendment to the certificate must contain a description of each new service area designated by the holder and a map of each new service area that shows the territorial boundaries of each local government located, in whole or in part, within the new service area.

3. The application for an amendment to the certificate is subject to the same procedures, requirements and time periods as an application for the issuance of a certificate pursuant to sections 33 and 34 of this act.

Sec. 36. ***1. If the holder of a certificate wants to modify the boundaries of an existing service area authorized under the certificate, the holder must file with the Secretary of State written notice of the modification and pay any fee required by section 29.5 of this act.***

2. The holder may make the modification on the date on which it files the written notice with the Secretary of State.

Sec. 37. ***1. If the holder of a certificate wants to terminate service to an existing service area authorized under the certificate, the holder must file with the Secretary of State written notice of the termination and pay any fee required by section 29.5 of this act.***

2. The holder may make the termination on the date on which it files the written notice with the Secretary of State.

Sec. 38. ***1. Except as otherwise provided in this section, a certificate of authority is fully transferable to any successor-in-interest of the holder of the certificate whether the transfer to the successor-in-interest arises through merger, sale, assignment, restructuring, change of control or any other type of transaction.***

2. The holder shall file with the Secretary of State written notice of the transfer of the certificate to the successor-in-interest and pay any fee required by section 29.5 of this act not later than 10 days after the date on which the transfer is completed.

3. Before the holder may transfer its certificate to the successor-in-interest, the successor-in-interest must agree that any collective bargaining agreement entered into by the holder shall continue to be honored, paid or performed by the successor-in-interest to the same extent as would be required if the holder continued to operate under its certificate unless such continued application of the collective bargaining agreement to the successor-in-interest is prohibited or limited by the terms of the agreement or by federal or state law. Any transfer of a certificate of authority that violates the provisions of this subsection is void and unenforceable and is not valid for any purpose.

Sec. 39. ***1. Not later than 24 months after the date on which the Secretary of State issues a certificate of authority pursuant to sections 33 and 34 of this act or an amended certificate of authority pursuant to section 35 of this act, the holder of the certificate must have the capability to offer and provide video service to at least one subscriber who resides within the territorial boundaries of each service area authorized by the certificate or the amended certificate.***

2. If a holder fails to comply with the provisions of subsection 1, the holder's certificate of authority shall be deemed to be revoked by operation of law without the need for any notice, hearing or action by the Secretary of State.

Sec. 40. ***A holder of a certificate shall provide video service in accordance with the certifications made by the holder in each application and affidavit that the holder files with the Secretary of State pursuant to section 33 or 35 of this act.***

Sec. 40.5. ***1. If a video service provider that is not an incumbent cable operator within the jurisdiction of a local government intends to construct facilities within the jurisdiction of the local government pursuant to a certificate of authority, the video service provider shall, until it has constructed all the facilities intended for the jurisdiction of the local government, prepare and submit to the local government a semiannual report which describes the number of service locations within the jurisdiction of the local government that are capable of receiving video service from the video service provider.***

2. The video service provider shall submit the report to the local government not later than 10 business days after the last day of the second and fourth calendar quarters of each year.

3. The information contained in a report that is submitted to a local government pursuant to this section:

(a) Is confidential proprietary information of the video service provider;

(b) Is not a public record; and

(c) Must not be disclosed to any person who is not an officer or employee of the local government unless the video service provider consents to the disclosure or the disclosure is made pursuant to subsection 4.

4. Upon request from the Director of the Legislative Counsel Bureau, a local government shall disclose the information contained in a report that is submitted to the local government pursuant to this section to the Director for confidential use by the Legislature and the Legislative Counsel Bureau. The information that is disclosed to the Director:

(a) Is confidential proprietary information of the video service provider;

(b) Is not a public record; and

(c) Must not be disclosed to any person who is not an officer or employee of the Legislature or the Legislative Counsel Bureau unless the video service provider consents to the disclosure.

Sec. 41. ***1. A video service provider shall activate and offer video service in a nondiscriminatory manner within each service area and shall not deny access to video service to any group of potential residential subscribers within a particular part of a service area because of the income profile of the persons who reside in that particular part of the service area.***

2. In providing video service, a video service provider shall comply with:

(a) The provisions of 47 U.S.C. § 551, as that section existed on January 1, 2007.

(b) The provisions of the National Electrical Safety Code, as adopted and as may be amended by the Institute of Electrical and Electronics

Engineers, Inc., with regard to the video service provider's construction practices and installation of equipment.

(c) Any technical standards governing the design, construction and operation of a video service network required by federal law.

(d) The provisions of 47 C.F.R. Part 11, as adopted and as may be amended by the Federal Communications Commission, to the extent those provisions require a video service provider to participate in the Emergency Alert System.

Sec. 42. ***1. A video service provider:***

(a) Shall comply with the provisions of 47 C.F.R. §§ 76.309, 76.1601 to 76.1604, inclusive, and 76.1618 to 76.1622, inclusive, as adopted and as may be amended by the Federal Communications Commission, with regard to the standards governing the quality of video service and customer service; and

(b) May not be required to comply with more stringent or different customer service obligations than those set forth in paragraph (a).

2. To facilitate the resolution of complaints regarding video service made by subscribers:

(a) A video service provider shall establish and maintain a customer service department and provide each subscriber with instructions for:

(1) Contacting the customer service department if the subscriber has a complaint regarding video service; and

(2) Contacting the local government if the video service provider does not resolve the complaint to the satisfaction of the subscriber.

➥ The video service provider shall provide such instructions to the subscriber in each bill and in any service-related notice or other direct correspondence which the video service provider sends to the subscriber and which is related to that subscriber's video service. For the purposes of this paragraph, "service-related notice or other direct correspondence" does not include general advertising, marketing, promotional or public service materials that the video service provider sends to other subscribers or the public generally.

(b) Each local government which is located in a county whose population is 25,000 or more and which collects a franchise fee pursuant to section 46 of this act shall establish a process to:

(1) Make available to the public a list of video service providers authorized to provide video service within the jurisdiction of the local government;

(2) Respond to inquiries from subscribers and disseminate information to those subscribers regarding the standards governing the quality of video service and customer service prescribed by subsection 1 and the procedures available to subscribers to resolve complaints with such video service providers;

(3) Coordinate the resolution of subscriber complaints with the customer service departments of such video service providers;

(4) Facilitate access by subscribers to procedures to seek corrective action or other redress from such video service providers for alleged violations of the customer service standards prescribed by subsection 1; and

(5) Maintain a record of the number and general subject matter of subscriber complaints against each such video service provider. The record must contain a separate listing for each such video provider and must be made available for public inspection.

3. Before a local government may take the action permitted by subsection 4 against a video service provider regarding a complaint from a subscriber:

(a) The subscriber must provide notice of the complaint to the video service provider by contacting the customer service department of the video service provider; and

(b) The video service provider must be given a period of not less than 10 business days after the date on which it receives the notice from the subscriber to resolve the complaint to the satisfaction of the subscriber.

4. If a local government has reasonable cause to believe that a video service provider has committed persistent or repeated violations of the customer service obligations that apply to the video service provider pursuant to this section, the local government may file a written complaint with the Bureau of Consumer Protection in the Office of the Attorney General pursuant to section 60 of this act.

Sec. 43. ***1. A video service provider may provide telecommunication service pursuant to chapter 704 of NRS and the regulations approved by the Public Utilities Commission of Nevada for telecommunication providers.***

2. A video service provider shall obtain a certificate of public convenience and necessity pursuant to NRS 704.330 before providing any telecommunication service that is subject to regulation by the Public Utilities Commission of Nevada.

3. A local government shall not require a video service provider to obtain a franchise from the local government to provide:

(a) Telecommunication service; or

(b) Interactive computer service,

➥ if the video service provider uses its own video service network within the jurisdiction of the local government to provide such service.

Sec. 44. (Deleted by amendment.)

Sec. 45. ***1. A local government shall not require a video service provider to place its facilities in ducts or conduits or on poles owned or leased by the local government.***

2. A local government shall manage the use of any public right-of-way or highway by video service providers in a manner that:

(a) Is consistent with federal and state law and the lawful police powers of the local government; and

(b) Is competitively neutral and does not:

(1) Discriminate among video service providers; or

(2) Discriminate between video service providers and any other users of the public right-of-way or highway for the construction and operation of facilities.

3. In managing any public right-of-way or highway, a local government may:

(a) Require a video service provider that is constructing, installing, working within, maintaining or repairing facilities in, on, under or over any public right-of-way or highway to obtain a construction, encroachment or occupancy permit or license for such work; and

(b) Inspect the construction, installation, maintenance or repair work performed on such facilities.

4. If a video service provider makes a request for such a permit or license, the local government shall act upon the request not later than 10 business days after the date on which the request is made.

5. A local government may charge a video service provider a fee to issue such a permit or license or to perform any inspection authorized by this section. The amount of any fee charged by a local government pursuant to this subsection may not exceed the actual costs incurred by the local government in administering the process of issuing such permits or licenses and performing such inspections.

6. If there is a situation necessitating emergency response work or repair in, on, under or over any public right-of-way or highway, a video service provider may begin that work or repair without prior approval from a local government if the provider notifies the local government as promptly as reasonably possible after learning of the need for that work or repair.

Sec. 46. ***1. For the privilege of providing video service through a video service network that occupies or uses, in whole or in part, any public right-of-way or highway within the jurisdiction of a local government, the local government may require a video service provider to pay a franchise fee to the local government based on the gross revenue that the provider receives from its subscribers within the jurisdiction of the local government.***

2. To require the payment of the franchise fee, the governing body of the local government must adopt a nondiscriminatory ordinance or resolution that imposes the franchise fee equally and uniformly on all video service providers operating within the jurisdiction of the local government.

3. The local government shall not require a video service provider to pay a franchise fee for any year in a total amount that exceeds 5 percent of the gross revenue that the provider received during that year from its subscribers within the jurisdiction of the local government.

4. The entire amount of the franchise fee must be paid by a video service provider directly to the local government in legal tender of the United States or in a check, draft or note that is payable in legal tender of the United States.

5. A video service provider may:

(a) Pass the franchise fee through to and collect the franchise fee from its subscribers within the jurisdiction of the local government based on the gross revenue received from each such subscriber; and

(b) Designate the amount of the franchise fee collected from each subscriber as a separate line item on the subscriber's bill.

6. Except as otherwise provided in subsection 7, the franchise fee authorized by this section:

(a) Is the only fee, tax, assessment or other charge that a local government may impose on a video service provider for the privilege of providing video service or constructing or operating a video service network within the jurisdiction of the local government; and

(b) Is in lieu of any other fee, tax, assessment or charge that may be imposed by a local government on a video service provider for its occupation or use of any public right-of-way or highway.

7. This section does not restrict the right of a local government to impose on a video service provider:

(a) The fees authorized by subsection 5 of section 45 of this act; and

(b) Any generally applicable and nondiscriminatory fees, ad valorem taxes, sales taxes or other taxes that are lawfully imposed on other businesses within the jurisdiction of the local government.

Sec. 47. ***1. Not more than once every 3 years, a local government may, upon reasonable written notice, review and audit the business records of a video service provider to the extent necessary to ensure payment of a franchise fee pursuant to this chapter. If the results of such a review and audit identify an underpayment of the franchise fee in an amount that requires corrective action, the local government may perform a subsequent compliance review and audit to determine whether the video service provider has corrected the underpayment of the franchise fee. The compliance review and audit must be performed not later than 12 months after the date on which the results of the initial review and audit are submitted to the local government.***

2. The local government and the video service provider shall each pay its own costs and fees relating to each review and audit performed pursuant to subsection 1, except that if the video service provider elects to have the local government review and audit the requested business records of the video service provider at a location outside the territorial boundaries of the local government, the video service provider shall pay the per diem allowances and travel expenses incurred by the local government to perform the review and audit at that location.

3. A person who performs a review and audit pursuant to subsection 1 may not receive compensation that is based, in whole or in part, on:

(a) Finding a particular result; or

(b) The amount of any underpayment of the franchise fee that is identified as a result of the review and audit.

4. Any action to recover a disputed underpayment of a franchise fee from a video service provider must be commenced and prosecuted by the Attorney General on behalf of the affected local governments.

5. A video service provider may bring an action against a local government to recover a disputed overpayment of a franchise fee to the local government.

6. Any action to recover a disputed underpayment or overpayment of a franchise fee must be commenced in a district court not later than 4 years after the last day of the tax year to which the disputed underpayment or overpayment relates.

7. Each party shall pay its own costs and attorney's fees in commencing and prosecuting any action involving a disputed underpayment or overpayment of a franchise fee.

Sec. 48. ***As used in sections 48 to 59, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 49 to 53, inclusive, have the meanings ascribed to them in those sections.***

Sec. 49. ***"Hub office" means the facility and related equipment located within a video service network at which video programming is received directly or indirectly from national or international content providers or broadcast networks and combined with local programming and channels for signal distribution to subscribers through central offices and related transmission or transport facilities.***

Sec. 50. ***"Locally produced video programming" means video programming produced for a service area by:***

1. One or more natural persons who reside within the service area; or

2. Any local government, educational institution or other public or nonprofit private entity located within the service area.

Sec. 51. ***"Nonrepeat locally produced video programming" includes, without limitation, the first three videocastings of an official meeting of a local government.***

Sec. 52. ***"PEG access channel" means a channel that videocasts PEG access programming.***

Sec. 53. ***"PEG access programming" means noncommercial public, educational and governmental video programming or the capacity for the transmission of such programming.***

Sec. 54. ***For the purposes of sections 48 to 59, inclusive, of this act, a PEG access channel shall be deemed to be "substantially utilized" if at least 12 hours of PEG access programming, excluding any alpha-numeric programming, is videocast on the PEG access channel each calendar day***

and at least 80 percent of the PEG access programming on each calendar day is nonrepeat locally produced video programming.

Sec. 54.5. ***1. Except as otherwise provided in subsection 2, the provisions of sections 48 to 59, inclusive, of this act do not apply to any existing PEG access channel in service on the effective date of this act.***

2. The provisions of sections 48 to 59, inclusive, of this act do not prevent a video service provider from changing the channel number assigned to any PEG access channel, including, without limitation, any existing PEG access channel in service on the effective date of this act. If a video service provider intends to change the channel number assigned to any PEG access channel, the provider:

(a) Shall use good faith efforts to provide the affected local government with written notice of the change, to the extent reasonably practicable, at least 120 days before the date on which the change is to become effective; and

(b) Shall not provide such notice less than 30 days before the date on which the change is to become effective.

Sec. 55. ***Except as otherwise provided in sections 48 to 59, inclusive, of this act, a holder of a certificate is not required to:***

1. Provide any network or channel capacity or free or discounted cable service or other service to any governmental entity or school, library or other public building; or

2. Furnish any funds, services, programming, facilities, staffing or equipment related to the use of PEG access channels or the production or videocasting of PEG access programming.

Sec. 56. ***1. Not sooner than 12 months after the date on which an incumbent cable operator obtains a certificate of authority, the incumbent cable operator may cease providing any network or channel capacity or free or discounted cable service or other service to any governmental entity or school, library or other public building.***

2. If an incumbent cable operator ceases to provide network or channel capacity to a governmental entity, the incumbent cable operator may reclaim for its own purposes the network or channel capacity that was used by the governmental entity unless:

(a) The governmental entity uses the capacity for PEG access programming pursuant to sections 48 to 59, inclusive, of this act; or

(b) The incumbent cable operator and the governmental entity enter into a commercial agreement regarding the rates, terms and conditions for the governmental entity to continue using the network or channel capacity.

Sec. 57. ***1. On or after the date on which a holder of a certificate first provides video service to at least one subscriber within the service area of a local government, the local government may request that the holder provide capacity for PEG access programming on its video service network on any service tier viewed by more than 50 percent of the subscribers in that service area. Within a reasonable period of not less than 120 days after***

the date on which the local government submits its request, the holder shall provide the local government with such capacity for PEG access programming subject to the provisions of sections 48 to 59, inclusive, of this act.

2. If a video service provider did not provide capacity for PEG access programming to a local government while operating pursuant to a local franchise, the video service provider shall, after obtaining a certificate of authority, provide capacity for PEG access programming to the local government upon a request made by the local government pursuant to this section.

Sec. 58. ***1. A local government that requests capacity for PEG access programming may require a holder of a certificate to designate:***

(a) Not more than two PEG access channels, if the population within the jurisdiction of the local government is less than 50,000.

(b) Not more than three PEG access channels, if the population within the jurisdiction of the local government is 50,000 or more.

2. The number of PEG access channels set forth in subsection 1 constitutes the total number of PEG access channels that the holder may be required to designate on any single video service network utilizing a single headend or hub office, or on all commonly owned video service networks that share a common headend or hub office, regardless of the number of local governments served from that headend or hub office. If more than one local government is served by a single or common headend or hub office, the populations within the jurisdictions of all those local governments must be aggregated to determine the total number of PEG access channels under subsection 1.

3. When a local government submits its request for capacity for PEG access programming, the local government must submit information which establishes that each PEG access channel it has requested will be substantially utilized. If one or more of the PEG access channels available under subsection 1 are being used at the headend or hub office when the local government submits its request, the holder is not required to make any of the remaining PEG access channels available to the local government unless the local government submits information which establishes that all existing PEG access channels at the headend or hub office are being substantially utilized.

4. Except as otherwise provided in subsection 5, if a local government does not substantially utilize a PEG access channel made available to it pursuant this section, the holder may reclaim the channel capacity for its own purposes. After reclaiming the channel capacity, if the local government makes a request for restoration of the PEG access channel and submits to the holder information which establishes that the PEG access channel will be substantially utilized, the holder shall restore the PEG access channel to the local government unless, when the request is submitted to the holder, the maximum number of PEG access channels

available under subsection 1 are being used at the headend or hub office which serves the local government. If the restoration can be made within the limits of subsection 1, the holder shall restore the PEG access channel to the local government within a reasonable period of not less than 120 days after the date on which the request is submitted to the holder.

5. The provisions of subsection 4 do not apply to the first PEG access channel which is made available to a local government that does not have a PEG access channel in service on the effective date of this act.

Sec. 59. ***1. A local government receiving the benefit of a PEG access channel, or its designee, is responsible for producing the programming of that channel and for providing that programming to the holder of a certificate. The holder is responsible only for the transmission of the programming to subscribers.***

2. A local government, or its designee, shall provide to the holder all programming for a PEG access channel in a manner or form that is:

(a) Capable of being accepted and transmitted by the holder over its video service network without alteration or change in the content or transmission signal; and

(b) Compatible with the technology or protocol utilized by the holder to deliver its video service.

3. A local government shall:

(a) Make the programming for each PEG access channel available in a nondiscriminatory manner to all holders or incumbent cable operators providing video service in the service area of the local government.

(b) Provide all facilities necessary for connectivity to a single PEG access channel distribution point in the service area of the local government, except that the first 200 feet extending from the video service network for the connectivity is the responsibility of the holder.

4. Where necessary and technically feasible, holders or incumbent cable operators shall use reasonable efforts to interconnect their video service networks for the purpose of exchanging PEG access channel programming on mutually acceptable rates, terms and conditions. Interconnection may be accomplished by direct cable microwave link, satellite or other reasonable methods of connection. Holders and incumbent cable operators shall negotiate interconnection in good faith. The person requesting interconnection is responsible for any costs, including, without limitation, signal transmission from the origination point to the point of interconnection.

Sec. 60. ***1. A video service provider or a local government may file with the Bureau of Consumer Protection a written complaint alleging a violation of the provisions of this chapter.***

2. Upon a written complaint filed by a video service provider or a local government pursuant to this section, the Consumer's Advocate may commence in a district court an action to enforce the provisions of this chapter and to seek equitable or declaratory relief.

3. If such an action is commenced against a video service provider and the district court determines that the provider has violated any provision of this chapter, the court shall issue an order to the provider directing the provider to take corrective action within a specified reasonable period and providing for such other equitable or declaratory relief as the court finds necessary, including, without limitation, suspending the certificate of authority held by the video service provider.

4. If the district court orders equitable or declaratory relief in an action brought by the Consumer's Advocate pursuant to this section, the court shall award the Consumer's Advocate, in an amount approved by the court, reasonable attorney's fees and costs incurred by the Consumer's Advocate in bringing the action.

5. The provisions of this section do not:

(a) Apply to any action authorized pursuant to NRS 711.265 to 711.290, inclusive, or section 47 of this act.

(b) Prevent the Bureau of Consumer Protection from enforcing any applicable provisions of chapter 598 of NRS against a video service provider.

6. As used in this section:

(a) "Bureau of Consumer Protection" means the Bureau of Consumer Protection in the Office of the Attorney General.

(b) "Consumer's Advocate" means the Consumer's Advocate of the Bureau of Consumer Protection.

Sec. 61. NRS 711.020 is hereby amended to read as follows:

711.020 [The words and phrases] *As* used in this chapter ~~[have the meanings ascribed to them]~~ ***, unless the context otherwise requires, the words and terms defined*** in NRS 711.030 to 711.074, inclusive, ~~[unless a different meaning clearly appears in the context.]~~ ***and sections 3 to 27, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 62. NRS 711.030 is hereby amended to read as follows:

711.030 *1.* "Community antenna television company" means any person ~~[or organization which]~~ ***who*** owns, controls, operates or manages a community antenna television system . ~~[, except that the definition]~~

2. The term does not include:

~~[1. A telephone, telegraph]~~

(a) A telecommunication provider or electric utility regulated by the Public Utilities Commission of Nevada where the ***telecommunication provider or electric*** utility merely leases or rents to a community antenna television company wires or cables for the redistribution of television signals to or toward subscribers of that company; or

~~[2. A telephone or telegraph utility]~~

(b) A telecommunication provider regulated by the Public Utilities Commission of Nevada where the ~~[utility]~~ ***telecommunication provider*** merely provides channels of communication under published tariffs filed

with that Commission to a community antenna television company for the redistribution of television signals to or toward subscribers of that company.

Sec. 63. NRS 711.040 is hereby amended to read as follows:

711.040 1. "Community antenna television system" means any facility ***, or any component thereof, which is:***

(a) Located within this State ~~[which is constructed]~~ *;*

(b) Constructed in whole or in part in, on, under or over any ***public right-of-way or*** highway ~~[or other public place and is operated]~~ *; and*

(c) Operated to perform for hire the service of:

~~[(a)]~~ *(1)* Receiving and amplifying the signals broadcast by one or more television stations or provided for public, educational or governmental purposes and redistributing those signals by wire, cable or other means of closed transmission; or

~~[(b)]~~ *(2)* Providing two-way interactive services by wire, cable or other means of closed transmission, including, without limitation, Internet services, intranet services and electronic mail,

➥ to members of the public who subscribe to the service.

2. ~~[Such a system]~~ ***The term*** does not include any system which serves:

(a) Fewer than 50 subscribers; or

(b) Only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of those dwellings , if the buildings are separated by not more than one public ~~[street or]~~ right-of-way ~~[.]~~ ***or highway.***

3. As used in this section, "apartment dwelling" does not include a hotel, motel, condominium, town house or other similar dwelling.

Sec. 64. NRS 711.060 is hereby amended to read as follows:

711.060 "Facility" means all real property, antennae, poles, wires, cables, conduits, amplifiers, instruments, appliances, fixtures and other personal property used by a ~~[community antenna television company]~~ ***video service provider*** to provide service to its subscribers.

Sec. 65. NRS 711.074 is hereby amended to read as follows:

711.074 ***1.*** "Local government" means any city or county . ~~[which has the power to grant a franchise under NRS 711.190.]~~

2. The term includes, without limitation:

(a) Any entity or agency that is directly or indirectly controlled by any city or county; and

(b) Any entity or agency that is created by joint action or any interlocal or cooperative agreement of two or more cities or counties, or any combination thereof.

Sec. 66. NRS 711.175 is hereby amended to read as follows:

711.175 1. Except as otherwise provided in subsection 2 and NRS 318.1192 *:* ~~[, 318.1193 and 318.1194:]~~

(a) The governing body of a county whose population is 50,000 or more, and any entity or agency that is directly or indirectly controlled by such a

county, shall not sell ~~[the services of a community antenna television system]~~ ***video service*** to the general public.

(b) The governing body of a city whose population is 25,000 or more, and any entity or agency that is directly or indirectly controlled by such a city, shall not sell ~~[the services of a community antenna television system]~~ ***video service*** to the general public.

2. If the governing body of a county or city, or any entity or agency that is directly or indirectly controlled by such a county or city, was selling ~~[the services of a community antenna television system]~~ ***video service*** to the general public on April 1, 2003, it may continue to sell ~~[the services of a community antenna television system]~~ ***video service*** to the general public after that date, regardless of the population of the county or city.

Sec. 67. NRS 711.178 is hereby amended to read as follows:

711.178 1. If the governing body of a county or city is authorized pursuant to NRS 711.175 to sell ~~[the services of a community antenna television system]~~ ***video service*** to the general public, the governing body, and any entity or agency that is directly or indirectly controlled by the county or city, shall not construct, own, manage or operate a ~~[community antenna television system]~~ ***video service network*** in any area outside its territorial boundaries unless it:

(a) Obtains a ~~[franchise from the appropriate governing body pursuant to NRS 711.190]~~ ***certificate of authority*** for that portion of the ~~[community antenna television system]~~ ***video service network*** which it constructs, owns, manages or operates outside its territorial boundaries; and

(b) Complies with the same federal, state and local requirements that apply to a privately held ~~[community antenna television company]~~ ***video service provider*** with regard to that portion of the ~~[community antenna television system]~~ ***video service network*** which it constructs, owns, manages or operates outside its territorial boundaries.

2. ~~[On and after October 1, 2003, if]~~ ***If*** the governing body of a county or city is authorized pursuant to NRS 711.175 to sell ~~[the services of a community antenna television system]~~ ***video service*** to the general public, the governing body, and any entity or agency that is directly or indirectly controlled by the county or city, shall not construct, own, manage or operate a ~~[community antenna television system]~~ ***video service network*** in any area within its territorial boundaries which is governed by another governing body and which is served by one or more privately held ~~[community antenna television companies]~~ ***video service providers*** unless it:

(a) Obtains a ~~[franchise from the other governing body pursuant to NRS 711.190 or enters into an interlocal agreement with the other governing body;]~~ ***certificate of authority for that portion of the video service network which it constructs, owns, manages or operates within the jurisdiction of the other governing body;***

(b) Is required by the ~~[franchise or interlocal agreement]~~ ***certificate of authority*** to comply with the same ***federal, state and local*** requirements that

apply to the privately held ~~[community antenna television companies;]~~ ***video service providers with regard to that portion of the video service network which it constructs, owns, manages or operates within the jurisdiction of the other governing body;*** and

(c) Is prohibited by the ~~[franchise or interlocal agreement]~~ ***certificate of authority*** from providing the services of the ~~[community antenna television system,]~~ ***video service provider,*** free of charge, to any governmental officer or employee for his personal or household use.

3. The provisions of this section do not require the governing body of a county or city, or any entity or agency that is directly or indirectly controlled by the county or city, to obtain a certificate of authority for a service area if it is providing video service as an incumbent cable operator which holds an unexpired local franchise and which has elected pursuant to sections 32 and 32.5 of this act to continue to operate within that service area pursuant to the local franchise.

Sec. 68. NRS 711.240 is hereby amended to read as follows:

711.240 1. Except with respect to reasonable promotional activities, a ~~[person]~~ ***video service provider*** shall not advertise, offer to provide or provide any ***video*** service to subscribers ~~[of television services]~~ at a rate, including any rebate, less than the cost to the ~~[company]~~ ***video service provider*** to provide ~~[the service which is advertised, offered or provided]~~ ***that service*** with the intent to:

(a) Impair fair competition or restrain trade among ~~[companies]~~ ***video service providers*** which provide ~~[services]~~ ***video service*** in the same area; or

(b) Create a monopoly.

2. For the purposes of this section, "cost" means the expense of doing business including, without limitation, expenses for labor, rent, depreciation, interest, maintenance, delivery of the ***video*** service, franchise fees, taxes, insurance and advertising.

3. ~~[A community antenna television company may offer any telecommunication or related services which are offered in the same area by a telephone company, pursuant to chapter 704 of NRS and regulations approved by the Public Utilities Commission of Nevada for providers of similar services. A community antenna television company shall obtain a certificate of public convenience and necessity pursuant to NRS 704.330 before providing telecommunication or related services which are subject to regulation by the Public Utilities Commission of Nevada.~~

~~4.]~~ A violation of subsection 1 constitutes a prohibited act under NRS 598A.060. The Attorney General and any other person may exercise the powers conferred by that chapter to prevent, remedy or punish such a violation. The provisions of chapter 598A of NRS apply to any such violation.

Sec. 69. NRS 711.255 is hereby amended to read as follows:

711.255 1. A landlord shall not:

(a) Interfere with the receipt of service by a tenant from a ~~[community antenna television company]~~ ***video service provider*** or discriminate against a tenant for receiving ~~[such a company's service.]~~ ***service from a video service provider.***

(b) Except as otherwise provided in subsection 3, demand or accept payment of any fee, charge or valuable consideration from a ~~[community antenna television company]~~ ***video service provider*** or a tenant in exchange for granting access to the ~~[community antenna television company]~~ ***provider*** to provide ~~[its services]~~ ***service*** to the tenant.

2. A ~~[community antenna television company]~~ ***video service provider*** which desires to provide ~~[such services]~~ ***service*** to a tenant shall give 30 days' written notice of that desire to the landlord before the ~~[company]~~ ***provider*** takes any action to provide that service. Before authorizing the receipt of such service a landlord may:

(a) Take such reasonable steps as are necessary to ensure that the safety, function and appearance of the premises and the convenience and safety of persons on the property are not adversely affected by the installation, construction, operation or maintenance of the facilities necessary to provide the service, and is entitled to be reimbursed by the ~~[community antenna television company]~~ ***provider*** for the reasonable expenses incurred;

(b) Require that the cost of the installation, construction, operation, maintenance or removal of the necessary facilities be borne by the ~~[community antenna television company;]~~ ***provider;*** and

(c) Require the ~~[community antenna television company]~~ ***provider*** to provide evidence that the ~~[company]~~ ***provider*** will indemnify the landlord for any damage caused by the installation, construction, operation, maintenance or removal of the facilities.

3. A landlord is entitled to receive reasonable compensation for any direct adverse economic effect resulting from granting access to a ~~[community antenna television company.]~~ ***video service provider.*** There is a rebuttable presumption that the direct adverse economic effect resulting from granting access to the real property of the landlord is $1,000 or $1 for each dwelling unit thereon, whichever sum is greater. If a landlord intends to require the payment of such compensation in an amount exceeding that sum, the landlord shall notify the ~~[community antenna television company]~~ ***provider*** in writing of that intention. If the ~~[company]~~ ***provider*** does not receive such a notice within 20 days after the landlord is notified by the ~~[company]~~ ***provider*** that a tenant has requested the ~~[company]~~ ***provider*** to provide ~~[its services]~~ ***service*** to the tenant on the landlord's premises, the landlord may not require compensation for access to that tenant's dwelling unit in an amount exceeding $1,000. If within 30 days after receiving a landlord's request for compensation in an amount exceeding $1,000, the ~~[company]~~ ***provider*** has not agreed to pay the requested amount or an amount mutually acceptable to the ~~[company]~~ ***provider*** and the landlord, the landlord may petition a court of competent jurisdiction to set a reasonable amount of

compensation for the damage of or taking of his real property. Such an action must be filed within 6 months after the date the ~~[company]~~ ***provider*** completes construction.

4. In establishing the amount which will constitute reasonable compensation for any damage or taking ***claim*** by a landlord in excess of the sum established by rebuttable presumption pursuant to subsection 3, the court shall consider:

(a) The extent to which the ~~[community antenna television company's]~~ facilities ***of the video service provider*** physically occupy the premises;

(b) The actual long-term damage which the ~~[company's]~~ facilities ***of the video service provider*** may cause to the premises;

(c) The extent to which the ~~[company's]~~ facilities ***of the video service provider*** would interfere with the normal use and enjoyment of the premises; and

(d) The diminution or enhancement in value of the premises resulting from the availability of the service.

~~[➥ The court may also award to the prevailing party reasonable attorney's fees.]~~

5. The ~~[company's]~~ right ***of a video service provider*** to construct, install or repair its facilities and maintain its services within and upon the landlord's premises is not affected or impaired because the landlord requests compensation in an amount exceeding the sum established by rebuttable presumption pursuant to subsection 3, or files an action to assert a specific claim against the ~~[company.]~~ ***provider.***

6. A ~~[community antenna television company]~~ ***video service provider*** shall not offer a special discount or other benefit to a particular group of tenants as an incentive ***for those tenants*** to request ~~[the company's services,]~~ ***service from the provider,*** unless the same discount or benefit is offered generally in the county.

7. ~~[The community antenna television company and the]~~ ***A video service provider and a*** landlord shall negotiate in good faith for the purchase of the landlord's existing cable facilities rather than for the construction of new facilities on the premises.

8. As used in this section, "landlord" means an owner of real property, or his authorized representative, who provides a dwelling unit on the real property for occupancy by another for valuable consideration. The term includes, without limitation, the lessor of a mobile home lot and the lessor or operator of a mobile home park.

Sec. 70. NRS 711.265 is hereby amended to read as follows:

711.265 1. Any person who:

(a) By the attachment of a ground wire, or by any other contrivance, willfully destroys the insulation of a ~~[telecommunications line of a community antenna television company,]~~ ***wire, cable, conduit, line or similar facility of a video service provider*** or interrupts the transmission of

the electric current through ~~[the line;]~~ ***such a wire, cable, conduit, line or similar facility;***

(b) Willfully interferes with the use of ~~[any such line,]~~ ***such a wire, cable, conduit, line or similar facility*** or obstructs or postpones the transmission of any message *or signal* over ~~[the line;]~~ ***such a wire, cable, conduit, line or similar facility;*** or

(c) Procures or advises any such injury, interference or obstruction,

➥ is guilty of a public offense, as prescribed in NRS 193.155, proportionate to the value of any property damaged, altered, removed or destroyed and in no event less than a misdemeanor.

2. Any person who violates the provisions of subsection 1 is, in addition to the penalty set forth in that subsection, liable to the ~~[community antenna television company]~~ ***video service provider*** injured by such conduct in a civil action for all damages occasioned thereby.

Sec. 71. NRS 711.270 is hereby amended to read as follows:

711.270 1. It is unlawful for a person knowingly , ~~[and]~~ with the intent to intercept or receive a program or other service provided by a ~~[community antenna television company,]~~ ***video service provider and*** without the authorization of the ~~[company,]~~ ***provider,*** to:

(a) Make a connection or attach a device to a line or other ~~[component of a community antenna television company;]~~ ***facility of the provider;***

(b) Purchase or possess a device or kit designed to intercept or receive a program or other service provided by the ~~[community antenna television company;]~~ ***provider;***

(c) Make or maintain a modification to a device installed by or with the authorization of ~~[a community antenna television company]~~ ***the provider*** to intercept or receive a program or other service provided by the ~~[community antenna television company;]~~ ***provider;*** or

(d) Manufacture, import, distribute, advertise, sell, lease, offer to sell or lease, or possess with the intent to sell or lease a device designed to decode, descramble, intercept or otherwise make intelligible a signal encoded by ~~[a community antenna television company.]~~ ***the provider.***

2. Unless a greater penalty is provided in NRS 711.265:

(a) Except as otherwise provided in paragraph (b), a person who violates paragraph (a), (b) or (c) of subsection 1 is guilty of a misdemeanor.

(b) A person who violates paragraph (a), (b) or (c) of subsection 1 for commercial advantage, whether direct or indirect, is guilty of a gross misdemeanor.

(c) A person who violates paragraph (d) of subsection 1:

(1) If the violation involves nine or fewer devices, is guilty of a gross misdemeanor.

(2) If the violation involves 10 or more devices, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 72. NRS 711.280 is hereby amended to read as follows:

711.280 1. A person who violates paragraph (a), (b) or (c) of subsection 1 of NRS 711.270 is, in addition to being criminally liable pursuant to NRS 711.270, civilly liable to the ~~[community antenna television company]~~ ***video service provider*** injured by the conduct for $3,500 or three times any actual damages incurred by the company, whichever is greater, and reasonable attorney's fees.

2. A person who violates paragraph (d) of subsection 1 of NRS 711.270 is, in addition to being criminally liable pursuant to NRS 711.270, civilly liable to the ~~[community antenna television company]~~ ***video service provider*** injured by the conduct for $5,000 or three times any actual damages incurred by the company, whichever is greater, and reasonable attorney's fees.

3. In any action brought pursuant to this section, proof that any of the acts prohibited in subsection 1 were committed on or about the premises occupied by the defendant is prima facie evidence that such acts were committed by the defendant.

4. ~~[An owner or operator of a community antenna television company]~~ *A* ***video service provider*** may bring an action to enjoin any violation of NRS 711.270.

Sec. 73. NRS 37.010 is hereby amended to read as follows:

37.010 Subject to the provisions of this chapter, the right of eminent domain may be exercised in behalf of the following public purposes:

1. Federal activities. All public purposes authorized by the Government of the United States.

2. State activities. Public buildings and grounds for the use of the State, the Nevada System of Higher Education and all other public purposes authorized by the Legislature.

3. County, city, town and school district activities. Public buildings and grounds for the use of any county, incorporated city or town, or school district, reservoirs, water rights, canals, aqueducts, flumes, ditches or pipes for conducting water for the use of the inhabitants of any county, incorporated city or town, for draining any county, incorporated city or town, for raising the banks of streams, removing obstructions therefrom, and widening, deepening or straightening their channels, for roads, streets and alleys, and all other public purposes for the benefit of any county, incorporated city or town, or the inhabitants thereof.

4. Bridges, toll roads, railroads, street railways and similar uses. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation.

5. Ditches, canals, aqueducts for smelting, domestic uses, irrigation and reclamation. Reservoirs, dams, water gates, canals, ditches, flumes, tunnels, aqueducts and pipes for supplying persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic and other uses, for

irrigating purposes, for draining and reclaiming lands, or for floating logs and lumber on streams not navigable.

6. Mining, smelting and related activities. Mining, smelting and related activities as follows:

(a) Mining and related activities, which are recognized as the paramount interest of this State.

(b) Roads, railroads, tramways, tunnels, ditches, flumes, pipes, reservoirs, dams, water gates, canals, aqueducts and dumping places to facilitate the milling, smelting or other reduction of ores, the working, reclamation or dewatering of mines, and for all mining purposes, outlets, natural or otherwise, for the deposit or conduct of tailings, refuse, or water from mills, smelters, or other work for the reduction of ores from mines, mill dams, pipelines, tanks or reservoirs for natural gas or oil, an occupancy in common by the owners or possessors of different mines, mills, smelters or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter and the necessary land upon which to erect smelters and to operate them successfully, including the deposit of fine flue dust, fumes and smoke.

7. Byroads. Byroads leading from highways to residences and farms.

8. Public utilities. Lines for telegraph, telephone, electric light and electric power and sites for plants for electric light and power.

9. Sewerage. Sewerage of any city, town, settlement of not less than 10 families or any public building belonging to the State or college or university.

10. Water for generation and transmission of electricity. Canals, reservoirs, dams, ditches, flumes, aqueducts and pipes for supplying and storing water for the operation of machinery to generate and transmit electricity for power, light or heat.

11. Cemeteries, public parks. Cemeteries or public parks.

12. Pipelines of beet sugar industry. Pipelines to conduct any liquids connected with the manufacture of beet sugar.

13. Pipelines for petroleum products, natural gas. Pipelines for the transportation of crude petroleum, petroleum products or natural gas, whether interstate or intrastate.

14. Aviation. Airports, facilities for air navigation and aerial rights-of-way.

15. Monorails. Monorails and any other overhead or underground system used for public transportation.

16. ~~[Community antenna television companies. Community antenna television companies which have been granted a franchise from the governing body of the jurisdictions in which they provide services.]~~ ***Video service providers. Video service providers that are authorized pursuant to chapter 711 of NRS to operate a video service network.*** The exercise of the power of eminent domain may include the right to use the wires, conduits, cables or poles of any public utility if:

(a) It creates no substantial detriment to the service provided by the utility;

(b) It causes no irreparable injury to the utility; and

(c) The Public Utilities Commission of Nevada, after giving notice and affording a hearing to all persons affected by the proposed use of the wires, conduits, cables or poles, has found that it is in the public interest.

17. Redevelopment. The acquisition of property pursuant to NRS 279.382 to 279.685, inclusive.

Sec. 74. NRS 118B.0195 is hereby amended to read as follows:

118B.0195 "Utility" includes ~~[a]~~ *:*

1. ***A*** public utility which provides:

~~[1.]~~ ***(a)*** Electricity;

~~[2.]~~ ***(b)*** Natural gas;

~~[3.]~~ ***(c)*** Liquefied petroleum gas;

~~[4. Cable television;~~

~~5.]~~ ***(d)*** Sewer services;

~~[6.]~~ ***(e)*** Garbage collection; or

~~[7.]~~ ***(f)*** Water.

2. A video service provider which provides video service pursuant to chapter 711 of NRS.

Sec. 75. NRS 205.0829 is hereby amended to read as follows:

205.0829 "Services" includes labor, professional services, transportation, cable television ~~[,]~~ ***or other video service,*** telephone, gas or electricity services, accommodations in hotels, restaurants, leased premises or elsewhere, admissions to exhibitions and the use of vehicles or other movable property.

Sec. 76. NRS 205.4743 is hereby amended to read as follows:

205.4743 1. "Information 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 by means of any component, device, equipment, system or network, including, without limitation, by means of:

(a) A computer, computer system, computer network, modem or scanner.

(b) A telephone, cellular phone, satellite phone, pager, personal communications device or facsimile machine.

(c) Any type of transmitter or receiver.

(d) Any other component, device, equipment, system or network that uses analog, digital, electronic, electromagnetic, magnetic or optical technology.

2. The term does not include ~~[a community antenna television company,]~~ ***video service,*** as defined in ~~[NRS 711.030.]~~ ***section 25 of this act.***

Sec. 76.3. NRS 228.340 is hereby amended to read as follows:

228.340 1. Except as otherwise provided by NRS 598A.260, all money collected by the Bureau of Consumer Protection pursuant to NRS 704.033 ***and chapter 711 of NRS*** and ***pursuant*** to those provisions ***of NRS*** relating to private investigators and unfair trade practices must be deposited with the

State Treasurer for credit to the Account for the Bureau of Consumer Protection.

2. Money in the Account may be used only to defray the costs of maintaining the Office of the Consumer's Advocate and for carrying out the provisions of NRS 228.300 to 228.390, inclusive.

3. All claims against the Account must be paid as other claims against the State are paid.

Sec. 76.5. NRS 228.380 is hereby amended to read as follows:

228.380 1. Except as otherwise provided in this section, the Consumer's Advocate may exercise the power of the Attorney General in areas of consumer protection, including, but not limited to, enforcement of chapters 90, 597, 598, 598A, 598B, 598C ~~[and]~~ , 599B ***and 711*** of NRS.

2. The Consumer's Advocate may not exercise any powers to enforce any criminal statute set forth in ~~[chapters]~~ *:*

(a) Chapters 90, 597, 598, 598A, 598B, 598C or 599B of NRS for any transaction or activity that involves a proceeding before the Public Utilities Commission of Nevada if the Consumer's Advocate is participating in that proceeding as a real party in interest on behalf of the customers or a class of customers of utilities ~~[.~~

~~2.]~~ ***; or***

(b) Chapter 711 of NRS.

3. The Consumer's Advocate may expend revenues derived from NRS 704.033 only for activities directly related to the protection of customers of public utilities.

~~[3.]~~ ***4.*** The powers of the Consumer's Advocate do not extend to proceedings before the Public Utilities Commission of Nevada directly relating to discretionary or competitive telecommunication services.

Sec. 77. NRS 244.186 is hereby amended to read as follows:

244.186 1. If the governing body of a county is authorized pursuant to NRS 711.175 to sell video ~~[programming services]~~ ***service*** to the general public over a ~~[community antenna television system,]~~ ***video service network,*** the governing body, and any entity or agency that is directly or indirectly controlled by the county, shall not do any of the following:

(a) Sell such video ~~[programming services]~~ ***service*** at a price that is less than the actual cost of the video ~~[programming services]~~ ***service*** or sell a bundle of services containing such video ~~[programming services]~~ *service* at a price that is less than the actual cost of the bundle of services.

(b) Use any money from the county general fund for the provision of such video ~~[programming services]~~ ***service*** over its ~~[community antenna television system.]~~ ***video service network.***

(c) Use its rights-of-way, its property or any special power it may possess by virtue of its status as a government or a government-owned utility to:

(1) Create a preference or advantage for its ~~[community antenna television system;]~~ ***video service network;*** or

(2) Impose any discriminatory burden on any privately held ~~[community antenna television company.]~~ ***video service provider.***

2. The provisions of this section must be enforced in the manner set forth in paragraph (c) of subsection 4 of NRS 354.624 and paragraph (c) of subsection 5 of NRS 354.624.

3. The provisions of this section do not create an exclusive remedy and do not abrogate or limit any other action or remedy that is available to the governing body or a privately held ~~[community antenna television company]~~ ***video service provider*** pursuant to any other statute or the common law.

4. As used in this section:

(a) ~~["Community antenna television company"]~~ ***"Video service"*** has the meaning ascribed to it in ~~[NRS 711.030.~~

~~(b) "Community antenna television system" has the meaning ascribed to it in NRS 711.040.~~

~~(c) "Video programming services" means services which are provided over a community antenna television system and which contain:~~

~~(1) Programming provided by a television broadcast station; or~~

~~(2) Programming that is generally considered comparable to programming provided by a television broadcast station.]~~ ***section 25 of this act.***

(b) "Video service network" has the meaning ascribed to it in section 26 of this act.

(c) "Video service provider" has the meaning ascribed to it in section 27 of this act.

Sec. 78. NRS 271.204 is hereby amended to read as follows:

271.204 "Service facilities" means any works or improvements used or useful in providing:

1. Electric or communication service; or

2. Service from a ~~[community antenna television system]~~ ***video service network,*** as that term is defined in ~~[NRS 711.040,]~~ ***section 26 of this act,***

➥ including, but not limited to, poles, supports, tunnels, manholes, vaults, conduits, pipes, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, capacitors, meters, communication circuits, appliances, attachments and appurtenances.

Sec. 79. NRS 271.2045 is hereby amended to read as follows:

271.2045 "Service provider" means:

1. A person or corporation subject to the jurisdiction of the Public Utilities Commission of Nevada that provides electric or communication service to the public; and

2. A ~~[community antenna television company]~~ ***video service provider,*** as that term is defined in ~~[NRS 711.030]~~ ***section 27 of this act,*** that provides service from a ~~[community antenna television system,]~~ ***video service network,***

➥ by means of service facilities.

Sec. 80. NRS 271.850 is hereby amended to read as follows:

271.850 1. The service facilities within the boundaries of each lot within a district to finance an underground conversion project established pursuant to NRS 271.800 must be placed underground at the same time as or after the underground system in private easements and public places is placed underground. The service provider involved, directly or through a contractor, shall, in accordance with the rules and regulations of the service provider, but subject to the regulations of the Public Utilities Commission of Nevada and any other applicable laws, ordinances, rules or regulations of the municipality or any other public agency under the police power, convert to underground its facilities on any such lot:

(a) For service facilities that provide electric service, up to the service entrance.

(b) For service facilities that provide communication service or service from a ~~[community antenna television system]~~ ***video service network,*** as that term is defined in ~~[NRS 711.040,]~~ ***section 26 of this act,*** up to the connection point within the house or structure.

2. All costs or expenses of conversion must be included in the cost on which the cost of the underground conversion for that property is calculated.

3. As used in this section, "lot" includes any portion, piece or parcel of land.

Sec. 81. NRS 278.329 is hereby amended to read as follows:

278.329 A governing body or its authorized representative may relieve a person who proposes to divide land pursuant to NRS 278.360 to 278.460, inclusive, or 278.471 to 278.4725, inclusive, from the requirement to dedicate easements to public utilities that provide gas, electric, telecommunications, water and sewer services and any ~~[franchised community antenna television companies]~~ ***video service providers*** pursuant to paragraph (d) or (e) of subsection 9 of NRS 278.372 or paragraph (c) or (d) of subsection 4 of NRS 278.472 if the person demonstrates to the public body or its authorized representative that there is not an essential nexus to the public purpose for the dedication and the dedication is not roughly proportional in nature and extent to the impact of the proposed development.

Sec. 82. NRS 278.372 is hereby amended to read as follows:

278.372 1. The final map must be clearly and legibly drawn in permanent black ink upon good tracing cloth or produced by the use of other materials of a permanent nature generally used for such purpose in the engineering profession. Affidavits, certificates and acknowledgments must be legibly stamped or printed upon the final map with permanent black ink.

2. The size of each sheet of the final map must be 24 by 32 inches. A marginal line must be drawn completely around each sheet, leaving an entirely blank margin of 1 inch at the top, bottom, and right edges, and of 2 inches at the left edge along the 24-inch dimension.

3. The scale of the final map must be large enough to show all details clearly. The final map must have a sufficient number of sheets to accomplish this end.

4. Each sheet of the final map must indicate its particular number, the total number of sheets in the final map and its relation to each adjoining sheet.

5. The final map must show all surveyed and mathematical information and data necessary to locate all monuments and to locate and retrace all interior and exterior boundary lines appearing thereon, including the bearings and distances of straight lines, central angle, radii and arc length for all curves and such information as may be necessary to determine the location of the centers of curves.

6. Each lot must be numbered or lettered.

7. Each street must be named and each block may be numbered or lettered.

8. The exterior boundary of the land included within the subdivision must be indicated by graphic border.

9. The final map must show:

(a) The definite location of the subdivision, particularly its relation to surrounding surveys.

(b) The area of each lot and the total area of the land in the subdivision in the following manner:

(1) In acres, calculated to the nearest one-hundredth of an acre, if the area is 2 acres or more; or

(2) In square feet if the area is less than 2 acres.

(c) Any roads or easements of access which the owner intends to offer for dedication.

(d) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any ~~[community antenna television companies that have a franchise]~~ ***video service providers that are authorized pursuant to chapter 711 of NRS*** to operate a ~~[community antenna television system]~~ ***video service network*** in that area.

(e) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide water and sewer services.

10. The final map for a condominium must also indicate, for the purpose of assessing taxes, whether any garage units, parking spaces or storage units may be conveyed separately from the units within the condominium or are parceled separately from those units. As used in this subsection, "condominium" has the meaning ascribed to it in NRS 116.027.

11. The final map must also satisfy any additional survey and map requirements, including the delineation of Nevada state plane coordinates established pursuant to chapter 327 of NRS, for any corner of the subdivision or any other point prescribed by the local ordinance.

Sec. 83. NRS 278.374 is hereby amended to read as follows:

278.374 1. Except as otherwise provided in subsection 2, a final map presented for filing must include a certificate signed and acknowledged, in

the manner provided in NRS 240.1665 or 240.167, by each person who is an owner of the land:

(a) Consenting to the preparation and recordation of the final map.

(b) Offering for dedication that part of the land which the person wishes to dedicate for public use, subject to any reservation contained therein.

(c) Reserving any parcel from dedication.

(d) Granting any permanent easement for utility or ~~[community antenna television cable]~~ ***video service network*** installation or access, as designated on the final map, together with a statement approving such easement, signed by the public utility, ~~[community antenna television company]~~ ***video service provider*** or person in whose favor the easement is created or whose services are required.

2. If the map presented for filing is an amended map of a common-interest community, the certificate need only be signed and acknowledged by a person authorized to record the map under chapter 116 of NRS.

3. A final map of a common-interest community presented for recording and, if required by local ordinance, a final map of any other subdivision presented for recording must include:

(a) A report from a title company in which the title company certifies that it has issued a guarantee for the benefit of the local government which lists the names of:

(1) Each owner of record of the land to be divided; and

(2) Each holder of record of a security interest in the land to be divided, if the security interest was created by a mortgage or a deed of trust.

➥ The guarantee accompanying a final map of a common-interest community must also show that there are no liens of record against the common-interest community or any part thereof for delinquent state, county, municipal, federal or local taxes or assessments collected as taxes or special assessments.

(b) The written consent of each holder of record of a security interest listed pursuant to subparagraph (2) of paragraph (a), to the preparation and recordation of the final map. A holder of record may consent by signing:

(1) The final map; or

(2) A separate document that is filed with the final map and declares his consent to the division of land.

4. For the purpose of this section, the following shall be deemed not to be an interest in land:

(a) A lien for taxes or special assessments.

(b) A trust interest under a bond indenture.

5. As used in this section, "guarantee" means a guarantee of the type filed with the Commissioner of Insurance pursuant to paragraph (e) of subsection 1 of NRS 692A.120.

Sec. 84. NRS 278.4713 is hereby amended to read as follows:

278.4713 1. Unless the filing of a tentative map is waived, a person who proposes to make a division of land pursuant to NRS 278.471 to 278.4725, inclusive, must first:

(a) File a tentative map for the area in which the land is located with the planning commission or its designated representative or with the clerk of the governing body if there is no planning commission; and

(b) Pay a filing fee of no more than $750 set by the governing body.

2. This map must be:

(a) Entitled "Tentative Map of Division into Large Parcels"; and

(b) Prepared and certified by a professional land surveyor.

3. This map must show:

(a) The approximate, calculated or actual acreage of each lot and the total acreage of the land to be divided.

(b) Any roads or easements of access which exist, are proposed in the applicable master plan or are proposed by the person who intends to divide the land.

(c) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any ~~[community antenna television companies that have a franchise]~~ ***video service providers that are authorized pursuant to chapter 711 of NRS*** to operate a ~~[community antenna television system]~~ ***video service network*** in that area.

(d) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide water and sewer services.

(e) Any existing easements for irrigation or drainage, and any normally continuously flowing watercourses.

(f) An indication of any existing road or easement which the owner does not intend to dedicate.

(g) The name and address of the owner of the land.

Sec. 85. NRS 278.472 is hereby amended to read as follows:

278.472 1. After the planning commission or the governing body or its authorized representative has approved the tentative map or waived the requirement of its filing, or 60 days after the date of its filing, whichever is earlier, the person who proposes to divide the land may file a final map of the division with the governing body or its authorized representative or, if authorized by the governing body, with the planning commission. The map must be accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid.

2. This map must be:

(a) Entitled "Map of Division into Large Parcels."

(b) Filed with the governing body or its authorized representative or, if authorized by the governing body, with the planning commission not later than 1 year after the date that the tentative map was first filed with the

planning commission or the governing body or its authorized representative or that the requirement of its filing was waived.

(c) Prepared by a professional land surveyor.

(d) Based upon an actual survey by the preparer and show the date of the survey and contain the certificate of the surveyor required pursuant to NRS 278.375.

(e) Clearly and legibly drawn in permanent black ink upon good tracing cloth or produced by the use of other materials of a permanent nature generally used for this purpose in the engineering profession. Affidavits, certificates and acknowledgments must be legibly stamped or printed upon the map with permanent black ink.

(f) Twenty-four by 32 inches in size with a marginal line drawn completely around each sheet, leaving an entirely blank margin of 1 inch at the top, bottom, and right edges, and of 2 inches at the left edge along the 24-inch dimension.

(g) Of scale large enough to show clearly all details.

3. The particular number of the sheet and the total number of sheets comprising the map must be stated on each of the sheets, and its relation to each adjoining sheet must be clearly shown.

4. This map must show and define:

(a) All subdivision lots by the number and actual acreage of each lot.

(b) Any roads or easements of access which exist and which the owner intends to offer for dedication, any roads or easements of access which are shown on the applicable master plan and any roads or easements of access which are specially required by the planning commission or the governing body or its authorized representative.

(c) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide gas, electric and telecommunications services and for any ~~[community antenna television companies that have a franchise]~~ ***video service providers that are authorized pursuant to chapter 711 of NRS*** to operate a ~~[community antenna television system]~~ ***video service network*** in that area.

(d) Except as otherwise provided in NRS 278.329, an easement for public utilities that provide water and sewer services.

(e) Any existing easements for irrigation or drainage, and any normally continuously flowing watercourses.

Sec. 86. NRS 318.1192 is hereby amended to read as follows:

318.1192 In the case of a district created wholly or in part for acquiring television maintenance facilities, the board shall have power to:

1. Acquire television broadcast, transmission and relay improvements ~~[.]~~ ***and construct and operate a video service network pursuant to chapter 711 of NRS.***

2. Levy special assessments against specially benefited real property on which are located television receivers operated within the district and able to receive television broadcasts supplied by the district.

3. Fix tolls, rates and other service or use charges for services furnished by the district or facilities of the district, including, without limitation, any one, all or any combination of the following:

(a) Flat rate charges;

(b) Charges classified by the number of receivers;

(c) Charges classified by the value of property served by television receivers;

(d) Charges classified by the character of the property served by television receivers;

(e) Minimum charges;

(f) Stand-by charges; or

(g) Other charges based on the availability of service.

4. The district shall not have the power in connection with the basic power stated in this section to borrow money which loan is evidenced by the issuance of any general obligation bonds or other general obligations of the district.

Sec. 87. NRS 354.59881 is hereby amended to read as follows:

354.59881 As used in NRS 354.59881 to 354.59889, inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~[354.598811]~~ ***354.598812*** to 354.598818, inclusive, have the meanings ascribed to them in those sections.

Sec. 88. NRS 354.598814 is hereby amended to read as follows:

354.598814 "Fee" means a charge imposed by a city or county upon a public utility for a business license, franchise or right-of-way over streets or other public areas, except ~~[:~~

~~1. Any]~~ ***any*** charge paid pursuant to the provisions of NRS 709.110, 709.230 or 709.270 . ~~[; or~~

~~2. A term or condition of a franchise granted by:~~

~~(a) A county whose population is 400,000 or more, or by an incorporated city that is located in whole or in part within such a county, that requires a community antenna television company to provide channels for public, educational or governmental access.~~

~~(b) A county or an incorporated city not specified in paragraph (a) that requires a community antenna television company to provide channels, facilities or equipment for public, educational or governmental access.]~~

Sec. 89. NRS 354.598817 is hereby amended to read as follows:

354.598817 ***1.*** "Public utility" includes ~~[:~~

~~1. A]~~ ***a*** person or local government that:

(a) Provides electric energy or gas, whether or not the person or local government is subject to regulation by the Public Utilities Commission of Nevada;

(b) Is a telecommunication carrier as that term is defined in 47 U.S.C. § 153 on July 16, 1997, if the person or local government holds a certificate of public convenience and necessity issued by the Public Utilities Commission

of Nevada and derives intrastate revenue from the provision of telecommunication service to retail customers; or

(c) Sells or resells personal wireless services.

2. ~~[A community antenna television company as that term is]~~ ***The term does not include a video service provider, as*** defined in ~~[NRS 711.030.]~~ ***section 27 of this act.***

Sec. 90. NRS 354.598818 is hereby amended to read as follows:

354.598818 "Revenue" does not include:

1. Any proceeds from the interstate sale of natural gas to a provider of electric energy that holds a certificate of public convenience and necessity issued by the Public Utilities Commission of Nevada; ***or***

2. Any revenue of a provider of a telecommunication service other than intrastate revenue that the provider collects from retail customers . ~~[; or~~

~~3. The amount deducted from the gross revenue of a community antenna television company pursuant to paragraph (b) of subsection 2 of NRS 711.200.]~~

Sec. 91. NRS 354.5989 is hereby amended to read as follows:

354.5989 1. A local government shall not increase any fee for a business license or adopt a fee for a business license issued for revenue or regulation, or both, except as permitted by this section. This prohibition does not apply to fees:

(a) Imposed by hospitals, county airports, airport authorities, convention authorities, the Las Vegas Valley Water District or the Clark County Sanitation District;

(b) Imposed on public utilities for the privilege of doing business pursuant to a franchise;

(c) ***Imposed in compliance with the provisions of section 46 of this act on video service providers for the privilege of doing business pursuant to chapter 711 of NRS;***

(d) For business licenses which are calculated as a fraction or percentage of the gross revenue of the business;

~~[(d)]~~ ***(e)*** Imposed pursuant to NRS 244.348, 268.0973, 268.821 or 269.182; or

~~[(e)]~~ ***(f)*** Regulated pursuant to NRS 354.59881 to 354.59889, inclusive.

2. The amount of revenue the local government derives or is allowed to derive, whichever is greater, from all fees for business licenses except:

(a) The fees excluded by subsection 1, for the fiscal year ended on June 30, 1991; and

(b) The fees collected for a particular type of business during the immediately preceding fiscal year ending on June 30 that a local government will not collect in the next subsequent fiscal year,

➥ is the base from which the maximum allowable revenue from such fees must be calculated for the next subsequent fiscal year. To the base must be added the sum of the amounts respectively equal to the product of the base multiplied by the percentage increase in the population of the local

government added to the percentage increase in the Consumer Price Index for the year ending on December 31 next preceding the year for which the limit is being calculated. The amount so determined becomes the base for computing the allowed increase for each subsequent year.

3. A local government may not increase any fee for a business license which is calculated as a fraction or percentage of the gross revenue of the business if its total revenues from such fees have increased during the preceding fiscal year by more than the increase in the Consumer Price Index during that preceding calendar year. The provisions of this subsection do not apply to a fee ~~[imposed]~~ *:*

(a) Imposed in compliance with the provisions of section 46 of this act on video service providers for the privilege of doing business pursuant to chapter 711 of NRS;

(b) Imposed pursuant to NRS 244.348, 268.0973, 268.821 or 269.182 ~~[, or regulated]~~ ***; or***

(c) Regulated pursuant to NRS 354.59881 to 354.59889, inclusive.

4. A local government may submit an application to increase its revenue from fees for business licenses beyond the amount allowable pursuant to this section to the Nevada Tax Commission, which may grant the application only if it finds that the rate of a business license of the local government is substantially below that of other local governments in the State.

5. The provisions of this section apply to a business license regardless of the fund to which the revenue from it is assigned. An ordinance or resolution enacted by a local government in violation of the provisions of this section is void.

6. As used in this section, "fee for a business license" does not include a tax imposed on the revenues from the rental of transient lodging.

Sec. 92. 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 service or community antenna television ***, cable television or other video*** 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. 93. 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 service or community antenna television ***, cable television or other video*** 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. 94. NRS 361.320 is hereby amended to read as follows:

361.320 1. At the regular session of the Nevada Tax Commission commencing on the first Monday in October of each year, the Nevada Tax Commission shall examine the reports filed pursuant to NRS 361.318 and establish the valuation for assessment purposes of any property of an interstate or intercounty nature used directly in the operation of all interstate or intercounty railroad, sleeping car, private car, natural gas transmission and distribution, water, telephone, scheduled and unscheduled air transport, electric light and power companies, and the property of all railway express companies operating on any common or contract carrier in this State. This valuation must not include the value of vehicles as defined in NRS 371.020.

2. Except as otherwise provided in subsections 3, 4 and 7 and NRS 361.323, the Nevada Tax Commission shall establish and fix the valuation of all physical property used directly in the operation of any such business of any such company in this State, as a collective unit. If the company is operating in more than one county, on establishing the unit valuation for the collective property, the Nevada Tax Commission shall then determine the total aggregate mileage operated within the State and within its several counties and apportion the mileage upon a mile-unit valuation basis. The number of miles apportioned to any county are subject to assessment in that county according to the mile-unit valuation established by the Nevada Tax Commission.

3. After establishing the valuation, as a collective unit, of a public utility which generates, transmits or distributes electricity, the Nevada Tax Commission shall segregate the value of any project in this State for the generation of electricity which is not yet put to use. This value must be assessed in the county where the project is located and must be taxed at the same rate as other property.

4. After establishing the valuation, as a collective unit, of an electric light and power company that places a facility into operation on or after July 1, 2003, in a county whose population is less than 100,000, the Nevada Tax Commission shall segregate the value of the facility from the collective unit. This value must be assessed in the county where the facility is located and taxed at the same rate as other property.

5. The Nevada Tax Commission shall adopt formulas and incorporate them in its records, providing the method or methods pursued in fixing and establishing the taxable value of all property assessed by it. The formulas must be adopted and may be changed from time to time upon its own motion or when made necessary by judicial decisions, but the formulas must in any event show all the elements of value considered by the Nevada Tax Commission in arriving at and fixing the value for any class of property assessed by it. These formulas must take into account, as indicators of value, the company's income and the cost of its assets, but the taxable value may not exceed the cost of replacement as appropriately depreciated.

6. If two or more persons perform separate functions that collectively are needed to deliver electric service to the final customer and the property used in performing the functions would be centrally assessed if owned by one person, the Nevada Tax Commission shall establish its valuation and apportion the valuation among the several counties in the same manner as the valuation of other centrally assessed property. The Nevada Tax Commission shall determine the proportion of the tax levied upon the property by each county according to the valuation of the contribution of each person to the aggregate valuation of the property. This subsection does not apply to a qualifying facility, as defined in 18 C.F.R. § 292.101, which was constructed before July 1, 1997, or to an exempt wholesale generator, as defined in 15 U.S.C. § 79z-5a.

7. A company engaged in a business described in subsection 1 that does not have property of an interstate or intercounty nature must be assessed as provided in subsection 8.

8. All other property, including, without limitation, that of any company engaged in providing commercial mobile radio service, radio or television transmission services or cable television ***or other video*** services, must be assessed by the county assessors, except as otherwise provided in NRS 361.321 and 362.100 and except that the valuation of land and mobile homes must be established for assessment purposes by the Nevada Tax Commission as provided in NRS 361.325.

9. On or before November 1 of each year, the Department shall forward a tax statement to each private car line company based on the valuation established pursuant to this section and in accordance with the tax levies of the several districts in each county. The company shall remit the ad valorem taxes due on or before December 15 to the Department, which shall allocate the taxes due each county on a mile-unit basis and remit the taxes to the counties no later than January 31. The portion of the taxes which is due the State must be transmitted directly to the State Treasurer. A company which fails to pay the tax within the time required shall pay a penalty of 10 percent of the tax due or $5,000, whichever is greater, in addition to the tax. Any amount paid as a penalty must be deposited in the State General Fund. The Department may, for good cause shown, waive the payment of a penalty pursuant to this subsection. As an alternative to any other method of recovering delinquent taxes provided by this chapter, the Attorney General may bring a civil action in a court of competent jurisdiction to recover delinquent taxes due pursuant to this subsection in the manner provided in NRS 361.560.

10. For the purposes of this section, an unscheduled air transport company does not include a company that only uses three or fewer fixed-wing aircraft with a weight of less than 12,500 pounds to provide transportation services, if the company elects, in the form and manner prescribed by the Department, to have the property of the company assessed by a county assessor.

11. As used in this section:

(a) "Company" means any person, company, corporation or association engaged in the business described.

(b) "Commercial mobile radio service" has the meaning ascribed to it in 47 C.F.R. § 20.3, as that section existed on January 1, 1998.

Sec. 95. NRS 372.728 is hereby amended to read as follows:

372.728 In administering the provisions of this chapter, the Department shall construe the term "retailer maintaining a place of business in this State" to include:

1. A retailer maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or place of storage, or any other place of business, in this State.

2. A retailer having any representative, agent, salesman, canvasser or solicitor operating in this State under the authority of the retailer or its subsidiary to sell, deliver or take orders for tangible personal property.

3. With respect to a lease, a retailer deriving rentals from a lease of tangible personal property situated in this State.

4. A retailer soliciting orders for tangible personal property through a system for shopping by means of telecommunication or television, using toll-free telephone numbers, which is intended by the retailer to be broadcast by

cable television or ***other video service network or any*** other means of broadcasting to persons located in this State or through a website on the Internet or other electronic means of communication to provide solicitations to persons in this State.

5. A retailer who, pursuant to a contract with a broadcaster or publisher located in this State, solicits orders for tangible personal property by means of advertising which is disseminated primarily to persons located in this State and only secondarily to bordering jurisdictions.

6. A retailer soliciting orders for tangible personal property by mail or electronic facsimile if the solicitations are substantial and recurring and if the retailer benefits from any activities occurring in this State related to banking, financing, the collection of debts, telecommunication or marketing, or benefits from the location in this State of authorized facilities for installation, servicing or repairs.

7. A retailer owned or controlled by the same person who owns or controls a retailer who maintains a place of business in the same or a similar line of business in this State.

8. A retailer having a person operating under its trade name, pursuant to a franchise or license authorized by the retailer, if the person so operating is required to collect the tax pursuant to NRS 372.195.

9. A retailer who, pursuant to a contract with the operator of a ~~[system of]~~ cable television ***system or other video service network*** located in this State, solicits orders for tangible personal property by means of advertising which is transmitted or distributed over a ~~[system of]~~ cable television ***system or other video service network located*** in this State.

Sec. 96. NRS 372.734 is hereby amended to read as follows:

372.734 In administering the provisions of this chapter, the Department shall not consider the activities of persons that are directly related to the process of transmitting radio, television, cable television ***, video*** or data signals, including the transmission of news or information by ***video or*** data signal, the transmission of signals from one broadcaster to another and from a broadcaster to a member of the public and including the production and airing of any form of speech or broadcast by radio or television, whether or not compensation is provided to the broadcaster in connection therewith, to be transactions that are taxable pursuant to the provisions of this chapter.

Sec. 97. NRS 374.728 is hereby amended to read as follows:

374.728 In administering the provisions of this chapter, the Department shall construe the term "retailer maintaining a place of business in a county" to include:

1. A retailer maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or place of storage, or any other place of business, in the county.

2. A retailer having any representative, agent, salesman, canvasser or solicitor operating in the county under the authority of the retailer or its subsidiary to sell, deliver or take orders for tangible personal property.

3. With respect to a lease, a retailer deriving rentals from a lease of tangible personal property situated in the county.

4. A retailer soliciting orders for tangible personal property through a system for shopping by means of telecommunication or television, using toll-free telephone numbers, which is intended by the retailer to be broadcast by cable television or ***other video service network or any*** other means of broadcasting to persons located in the county or through a website on the Internet or other electronic means of communication to provide solicitations to persons in this State.

5. A retailer who, pursuant to a contract with a broadcaster or publisher located in the State, solicits orders for tangible personal property by means of advertising which is disseminated primarily to persons located in the State and only secondarily to bordering jurisdictions, and which is disseminated to persons located in the county.

6. A retailer soliciting orders for tangible personal property by mail or electronic facsimile if the solicitations are substantial and recurring and if the retailer benefits from any activities occurring in the county related to banking, financing, the collection of debts, telecommunication or marketing, or benefits from the location in the county of authorized facilities for installation, servicing or repairs.

7. A retailer owned or controlled by the same persons who own or control a retailer who maintains a place of business in the same or a similar line of business in the county.

8. A retailer having a person operating under its trade name, pursuant to a franchise or license authorized by the retailer, if the person so operating is required to collect the tax pursuant to NRS 374.200.

9. A retailer who, pursuant to a contract with the operator of a ~~[system of]~~ cable television ***system or other video service network*** located in the State, solicits orders for tangible personal property by means of advertising which is transmitted or distributed over a ~~[system of]~~ cable television ***system or other video service network located*** in the county.

Sec. 98. NRS 374.739 is hereby amended to read as follows:

374.739 In administering the provisions of this chapter, the Department shall not consider the activities of persons that are directly related to the process of transmitting radio, television, cable television ***, video*** or data signals, including the transmission of news or information by ***video or*** data signal, the transmission of signals from one broadcaster to another and from a broadcaster to a member of the public and including the production and airing of any form of speech or broadcast by radio or television, whether or not compensation is provided to the broadcaster in connection therewith, to be transactions that are taxable pursuant to the provisions of this chapter.

Sec. 99. NRS 425.393 is hereby amended to read as follows:

425.393 1. The Chief may request the following information to carry out the provisions of this chapter:

(a) The records of the following public officers and state, county and local agencies:

(1) The State Registrar of Vital Statistics;

(2) Agencies responsible for maintaining records relating to state and local taxes and revenue;

(3) Agencies responsible for keeping records concerning real property and personal property for which a title must be obtained;

(4) All boards, commissions and agencies that issue occupational or professional licenses, certificates or permits;

(5) The Secretary of State;

(6) The Employment Security Division of the Department of Employment, Training and Rehabilitation;

(7) Agencies that administer public assistance;

(8) The Department of Motor Vehicles;

(9) The Department of Public Safety;

(10) The Department of Corrections; and

(11) Law enforcement agencies and any other agencies that maintain records of criminal history.

(b) The names and addresses of:

(1) The customers of public utilities and ~~[community antenna television companies;]~~ ***video service providers;*** and

(2) The employers of the customers described in subparagraph (1).

(c) Information in the possession of financial institutions relating to the assets, liabilities and any other details of the finances of a person.

(d) Information in the possession of a public or private employer relating to the employment, compensation and benefits of a person employed by the employer as an employee or independent contractor.

2. If a person or other entity fails to supply the information requested pursuant to subsection 1, the Administrator may issue a subpoena to compel the person or entity to provide that information. A person or entity who fails to comply with a request made pursuant to subsection 1 is subject to a civil penalty not to exceed $500 for each failure to comply.

3. A disclosure made in good faith pursuant to subsection 1 does not give rise to any action for damages for the disclosure.

Sec. 100. NRS 432.310 is hereby amended to read as follows:

432.310 "Broadcaster" means a radio broadcasting station, cable operator ***or other video service provider*** or television broadcasting station primarily engaged in, and deriving income from, the business of facilitating speech via over-the-air communications, both as to pure speech and commercial speech.

Sec. 101. NRS 455.210 is hereby amended to read as follows:

455.210 The provisions of NRS 455.220 and 455.230 are not applicable to:

1. An employee of a public utility which produces, transmits or delivers electricity, or a public utility which provides communication services, while the employee, in the course of his employment, constructs, modifies, operates or maintains:

(a) Electrical systems;

(b) Communication systems; or

(c) Overhead electrical or communication circuits or conductors, or the structures supporting them.

2. An employee of a ~~[cable antenna television system]~~ ***video service provider operating pursuant to chapter 711 of NRS*** or a business which provides communication services, while the employee, acting within the scope of his employment, is making service attachments to the structure supporting an overhead line carrying high voltage, if authorized to do so by the public utility operating the overhead line.

Sec. 102. NRS 597.816 is hereby amended to read as follows:

597.816 The provisions of NRS 597.814 do not prohibit the use of a device for automatic dialing and announcing by any person exclusively on behalf of:

1. A school or school district to contact the parents or guardians of a pupil regarding the attendance of the pupil or regarding other business of the school or school district.

2. A nonprofit organization.

3. A ~~[company]~~ ***video service provider*** that provides cable television ***or other video*** services to contact its customers regarding a previously arranged installation of such services at the premises of the customer.

4. A public utility to contact its customers regarding a previously arranged installation of utility services at the premises of the customer.

5. A facility that processes or stores petroleum, volatile petroleum products, natural gas, liquefied petroleum gas, combustible chemicals, explosives, high-level radioactive waste or other dangerous substances to advise local residents, public service agencies and news media of an actual or potential life-threatening emergency.

6. A state or local governmental agency, or a private entity operating under contract with and at the direction of such an agency, to provide:

(a) Information relating to public safety;

(b) Information relating to a police or fire emergency; or

(c) A warning of an impending or threatening emergency.

7. A candidate for public office, committee advocating the passage or defeat of a ballot question, political party, committee sponsored by a political party or a committee for political action.

Sec. 103. NRS 598.137 is hereby amended to read as follows:

598.137 1. A person shall not, in connection with the sale or lease or solicitation for sale or lease of any goods, property or service, represent that another person has a chance to receive a prize or item of value without

clearly disclosing on whose behalf the contest or promotion is conducted and all conditions that a participant must meet.

2. A person who makes a representation described in subsection 1 must display, clearly and conspicuously, adjacent to the description of the item or prize to which it relates:

(a) The actual retail value of each item or prize;

(b) The number of each item or prize to be awarded; and

(c) The odds of receiving each item or prize, expressed in whole numbers.

3. It is unlawful to make a representation described in subsection 1 if it has already been determined which items will be given to the person to whom the representation is made.

4. The provisions of this section do not apply if:

(a) Participants are asked to complete and mail or deposit, at a local retail commercial establishment, an entry blank obtained locally or by mail, or to call in their entry by telephone; and

(b) Participants are not asked to listen to a sales presentation.

5. Advertisements with representations made pursuant to subsection 1 that are broadcast by radio or television may be broadcast without the required disclosures, conditions and restrictions but must clearly broadcast the availability of such disclosures, conditions and restrictions to an interested person, without any charge, upon request.

6. This section does not create liability for acts of a publisher, owner, agent or employee of a newspaper, periodical, radio station, television station, cable television system ***or other video service network*** or other advertising medium for the publication or dissemination of an advertisement or promotion pursuant to this section if the publisher, owner, agent or employee did not know that the advertisement or promotion violated the provisions of this section.

7. For the purposes of this section, the actual retail value of an item or prize is the price at which substantial sales of the item were made in an area within the last 90 days, or if no substantial sales were made, the cost of the item or prize to the person on whose behalf the contest or promotion is conducted.

Sec. 104. NRS 598A.040 is hereby amended to read as follows:

598A.040 The provisions of this chapter do not apply to:

1. Any labor, agricultural or horticultural organizations organized for the purpose of self-help and not for profit to itself nor to individual members thereof, while lawfully carrying out its legitimate objects.

2. Bona fide religious and charitable activities of any nonprofit corporation, trust or organization established exclusively for religious or charitable purposes.

3. Conduct which is expressly authorized, regulated or approved by:

(a) A statute of this State or of the United States;

(b) An ordinance of any city or county of this State, except for ordinances relating to ~~[community antenna television companies;]~~ ***video service providers;*** or

(c) An administrative agency of this State or of the United States or of a city or county of this State, having jurisdiction of the subject matter.

4. Conduct or agreements relating to rates, fares, classifications, divisions, allowances or charges, including charges between carriers and compensation paid or received for the use of facilities and equipment, that are authorized, regulated or approved by the Transportation Services Authority pursuant to chapter 706 of NRS.

5. Restrictive covenants:

(a) Which are part of a contract of sale for a business and which bar the seller of the business from competing with the purchaser of the business sold within a reasonable market area for a reasonable period of time; or

(b) Which are part of a commercial shopping center lease and which bar the parties from permitting or engaging in the furnishing of certain services or the sale of certain commodities within the commercial shopping center where such leased premises are located.

Sec. 105. NRS 599B.010 is hereby amended to read as follows:

599B.010 As used in this chapter, unless the context otherwise requires:

1. ”Chance promotion” means any plan in which premiums are distributed by random or chance selection.

2. ”Commissioner” means the Commissioner of Consumer Affairs.

3. ”Consumer” means a person who is solicited by a seller or salesman.

4. ”Division” means the Consumer Affairs Division of the Department of Business and Industry.

5. ”Donation” means a promise, grant or pledge of money, credit, property, financial assistance or other thing of value given in response to a solicitation by telephone, including, but not limited to, a payment or promise to pay in consideration for a performance, event or sale of goods or services. The term does not include volunteer services, government grants or contracts or a payment by members of any organization of membership fees, dues, fines or assessments or for services rendered by the organization to those persons, if:

(a) The fees, dues, fines, assessments or services confer a bona fide right, privilege, professional standing, honor or other direct benefit upon the member; and

(b) Membership in the organization is not conferred solely in consideration for making a donation in response to a solicitation.

6. ”Goods or services” means any property, tangible or intangible, real, personal or mixed, and any other article, commodity or thing of value.

7. ”Premium” includes any prize, bonus, award, gift or any other similar inducement or incentive to purchase.

8. ”Recovery service” means a business or other practice whereby a person represents or implies that he will, for a fee, recover any amount of

money that a consumer has provided to a seller or salesman pursuant to a solicitation governed by the provisions of this chapter.

9. "Salesman" means any person:

(a) Employed or authorized by a seller to sell, or to attempt to sell, goods or services by telephone;

(b) Retained by a seller to provide consulting services relating to the management or operation of the seller's business; or

(c) Who communicates on behalf of a seller with a consumer:

(1) In the course of a solicitation by telephone; or

(2) For the purpose of verifying, changing or confirming an order,

➥ except that a person is not a salesman if his only function is to identify a consumer by name only and he immediately refers the consumer to a salesman.

10. Except as otherwise provided in subsection 11, "seller" means any person who, on his own behalf, causes or attempts to cause a solicitation by telephone to be made through the use of one or more salesmen or any automated dialing announcing device under any of the following circumstances:

(a) The person initiates contact by telephone with a consumer and represents or implies:

(1) That a consumer who buys one or more goods or services will receive additional goods or services, whether or not of the same type as purchased, without further cost, except for actual postage or common carrier charges;

(2) That a consumer will or has a chance or opportunity to receive a premium;

(3) That the items for sale are gold, silver or other precious metals, diamonds, rubies, sapphires or other precious stones, or any interest in oil, gas or mineral fields, wells or exploration sites or any other investment opportunity;

(4) That the product offered for sale is information or opinions relating to sporting events;

(5) That the product offered for sale is the services of a recovery service; or

(6) That the consumer will receive a premium or goods or services if he makes a donation;

(b) The solicitation by telephone is made by the person in response to inquiries from a consumer generated by a notification or communication sent or delivered to the consumer that represents or implies:

(1) That the consumer has been in any manner specially selected to receive the notification or communication or the offer contained in the notification or communication;

(2) That the consumer will receive a premium if the recipient calls the person;

(3) That if the consumer buys one or more goods or services from the person, the consumer will also receive additional or other goods or services, whether or not the same type as purchased, without further cost or at a cost that the person represents or implies is less than the regular price of the goods or services;

(4) That the product offered for sale is the services of a recovery service; or

(5) That the consumer will receive a premium or goods or services if he makes a donation; or

(c) The solicitation by telephone is made by the person in response to inquiries generated by advertisements that represent or imply that the person is offering to sell any:

(1) Gold, silver or other metals, including coins, diamonds, rubies, sapphires or other stones, coal or other minerals or any interest in oil, gas or other mineral fields, wells or exploration sites, or any other investment opportunity;

(2) Information or opinions relating to sporting events; or

(3) Services of a recovery service.

11. "Seller" does not include:

(a) A person licensed pursuant to chapter 90 of NRS when soliciting offers, sales or purchases within the scope of his license.

(b) A person licensed pursuant to chapter 119A, 119B, 624, 645 or 696A of NRS when soliciting sales within the scope of his license.

(c) A person licensed as an insurance broker, agent or solicitor when soliciting sales within the scope of his license.

(d) Any solicitation of sales made by the publisher of a newspaper or magazine or by an agent of the publisher pursuant to a written agreement between the agent and publisher.

(e) A broadcaster soliciting sales who is licensed by any state or federal authority, if the solicitation is within the scope of the broadcaster's license.

(f) A person who solicits a donation from a consumer when:

(1) The person represents or implies that the consumer will receive a premium or goods or services with an aggregated fair market value of 2 percent of the donation or $50, whichever is less; or

(2) The consumer provides a donation of $50 or less in response to the solicitation.

(g) A charitable organization which is registered or approved to conduct a lottery pursuant to chapter 462 of NRS.

(h) A public utility or motor carrier which is regulated pursuant to chapter 704 or 706 of NRS, or by an affiliate of such a utility or motor carrier, if the solicitation is within the scope of its certificate or license.

(i) A utility which is regulated pursuant to chapter 710 of NRS, or by an affiliate of such a utility.

(j) A person soliciting the sale of books, recordings, video cassettes, software for computer systems or similar items through:

(1) An organization whose method of sales is governed by the provisions of Part 425 of Title 16 of the Code of Federal Regulations relating to the use of negative option plans by sellers in commerce;

(2) The use of continuity plans, subscription arrangements, arrangements for standing orders, supplements, and series arrangements pursuant to which the person periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received; or

(3) An arrangement pursuant to which the person ships merchandise to a consumer who has consented in advance to receive the merchandise and has the opportunity to review the merchandise for at least 10 days and return it for a full refund within 30 days after it is received.

(k) A person who solicits sales by periodically publishing and delivering a catalog to consumers if the catalog:

(1) Contains a written description or illustration of each item offered for sale and the price of each item;

(2) Includes the business address of the person;

(3) Includes at least 24 pages of written material and illustrations;

(4) Is distributed in more than one state; and

(5) Has an annual circulation by mailing of not less than 250,000.

(l) A person soliciting without the intent to complete and who does not complete, the sales transaction by telephone but completes the sales transaction at a later face-to-face meeting between the solicitor and the consumer, if the person, after soliciting a sale by telephone, does not cause another person to collect the payment from or deliver any goods or services purchased to the consumer.

(m) Any commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, trust company, savings and loan association, credit union, industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurer subject to regulation by an official or agency of this State or of the United States, if the solicitation is within the scope of the certificate or license held by the entity.

(n) A person holding a certificate of authority issued pursuant to chapter 452 of NRS when soliciting sales within the scope of the certificate.

(o) A person licensed pursuant to chapter 689 of NRS when soliciting sales within the scope of his license.

(p) A person soliciting the sale of services provided by a ~~[community antenna television company]~~ ***video service provider*** subject to regulation pursuant to chapter 711 of NRS.

(q) A person soliciting the sale of agricultural products, if the solicitation is not intended to and does not result in a sale of more than $100 that is to be delivered to one address. As used in this paragraph, “agricultural products” has the meaning ascribed to it in NRS 587.290.

(r) A person who has been operating, for at least 2 years, a retail business establishment under the same name as that used in connection with the solicitation of sales by telephone if, on a continuing basis:

(1) Goods are displayed and offered for sale or services are offered for sale and provided at the person's business establishment; and

(2) At least 50 percent of the person's business involves the buyer obtaining such goods or services at the person's business establishment.

(s) A person soliciting only the sale of telephone answering services to be provided by the person or his employer.

(t) A person soliciting a transaction regulated by the Commodity Futures Trading Commission, if:

(1) The person is registered with or temporarily licensed by the Commission to conduct that activity pursuant to the Commodity Exchange Act *,* ~~[(]~~ 7 U.S.C. §§ 1 et seq. *;* ~~[),]~~ and

(2) The registration or license has not expired or been suspended or revoked.

(u) A person who contracts for the maintenance or repair of goods previously purchased from the person:

(1) Making the solicitation; or

(2) On whose behalf the solicitation is made.

(v) A person to whom a license to operate an information service or a nonrestricted gaming license, which is current and valid, has been issued pursuant to chapter 463 of NRS when soliciting sales within the scope of his license.

(w) A person who solicits a previous customer of the business on whose behalf the call is made if the person making the call:

(1) Does not offer the customer any premium in connection with the sale;

(2) Is not selling an investment or an opportunity for an investment that is not registered with any state or federal authority; and

(3) Is not regularly engaged in telephone sales.

(x) A person who solicits the sale of livestock.

(y) An issuer which has a class of securities that is listed on the New York Stock Exchange, the American Stock Exchange or the National Market System of the National Association of Securities Dealers Automated Quotation System.

(z) A subsidiary of an issuer that qualifies for exemption pursuant to paragraph (y) if at least 60 percent of the voting power of the shares of the subsidiary is owned by the issuer.

Sec. 105.1. For the purposes of sections 105.3 to 106.2, inclusive, of this act, the Legislature hereby finds and declares that:

1. There is a need to balance the goal of providing children with the benefits and opportunities available on the Internet against the compelling need and duty to protect children from contact with sexual predators.

2. Sexual predators use Internet and network sites, including chat rooms and social networking websites, to locate, approach and befriend children, to acquire personal information about children and to prey on children by engaging in sexually explicit conversations, requesting photographs and attempting to lure children into meeting with them in person.

3. According to the United States Attorney General, one in five children has been approached sexually on the Internet.

4. The explosive growth of chat rooms and social networking websites has increased the difficulty of monitoring the Internet activities of children and protecting children from sexual predators, particularly when children use the Internet without supervision.

5. Providers of Internet service and the owners and operators of chat rooms and social networking websites are well-situated to help parents and guardians in the on-going effort to guard against sexual predators who misuse Internet technology as a tool to prey on and victimize children.

Sec. 105.2. Chapter 603 of NRS is hereby amended by adding thereto the provisions set forth as sections 105.3 to 106.2, inclusive, of this act.

Sec. 105.3. ***As used in sections 105.3 to 106.2, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 105.4 to 105.7, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 105.4. ***"Child" means a person who is less than 18 years of age.***

Sec. 105.5. ***"Electronic mail" has the meaning ascribed to it in NRS 41.715.***

Sec. 105.6. ***1. "Internet or any other computer network" means:***

(a) The computer network commonly known as the Internet and any other local, regional or global computer network that is similar to or is a predecessor or successor of the Internet; and

(b) Any identifiable site on the Internet or such other computer network.

2. The term includes, without limitation:

(a) A website or other similar site on the World Wide Web;

(b) A site that is identifiable through a Uniform Resource Location;

(c) A site on a computer network that is owned, operated, administered or controlled by a provider of Internet service;

(d) An electronic bulletin board;

(e) A list server;

(f) A newsgroup; or

(g) A chat room.

Sec. 105.7. ***"Provider of Internet service" or "provider" means any person who, for a fee or other consideration, provides subscribers with access to the Internet or any other computer network.***

Sec. 105.8. ***For the purposes of sections 105.3 to 106.2, inclusive, of this act, a person has "reasonable cause to believe" if, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, a reasonable person***

would believe, under those facts and circumstances, that an act, transaction, event, situation or condition exists, is occurring or has occurred.

Sec. 106. ***1. If a provider of Internet service knows or has reasonable cause to believe that a subscriber resides within this State, the provider shall make available to the subscriber a product or service which enables the subscriber to regulate a child's use of the Internet service provided to the subscriber if such a product or service is reasonably and commercially available for the technology utilized by the subscriber to access the Internet service. The product or service must, subject to such availability, enable the subscriber to:***

(a) Block all access to the Internet;

(b) Block access to specific websites or domains disapproved by the subscriber;

(c) Restrict access exclusively to specific websites or domains approved by the subscriber; and

(d) Allow the subscriber to monitor a child's use of the Internet service by providing a report to the subscriber of the specific websites or domains that the child has visited or has attempted to visit but could not access because the websites or domains were blocked or restricted by the subscriber.

2. For the purposes of subsection 1, a provider of Internet service shall be deemed to know that a subscriber resides within this State if the subscriber identifies Nevada as his place of residence at the time of subscription.

3. If a product or service described in subsection 1 is reasonably and commercially available for the technology utilized by the subscriber to access the Internet service, the provider of Internet service:

(a) Shall provide to the subscriber, at the time of subscription, notice of the availability of the product or service described in subsection 1. The notice must be provided to the subscriber by electronic mail or in a written form through another reasonable means.

(b) May make the product or service described in subsection 1 available to the subscriber either directly or through a third-party vendor. The provider or third-party vendor may charge the subscriber a fee for the product or service.

Sec. 106.2. ***1. Any violation of sections 105.3 to 106.2, inclusive, of this act constitutes a deceptive trade practice subject to NRS 598.0903 to 598.0999, inclusive.***

2. The remedies, duties and prohibitions set forth in sections 105.3 to 106.2, inclusive, of this act are not exclusive and are in addition to any other remedies, duties and prohibitions provided by law.

Sec. 106.4. NRS 603.010 is hereby amended to read as follows:

603.010 As used in ~~[this chapter]~~ ***NRS 603.010 to 603.090, inclusive,*** unless the context otherwise requires, the words and terms defined in NRS 603.020 and 603.030, have the meanings ascribed to them in those sections.

Sec. 106.6. NRS 603.090 is hereby amended to read as follows:

603.090 The civil remedies provided in ~~[this chapter:]~~ ***NRS 603.010 to 603.090, inclusive:***

1. Do not preclude the prosecution of a defendant under the penal laws of this State.

2. Are in addition to any rights or remedies to which the owner of a proprietary program or data stored in a computer is entitled under the common law.

Sec. 106.8. NRS 618.880 is hereby amended to read as follows:

618.880 1. The Division shall adopt regulations establishing standards and procedures for the operation of cranes, including, without limitation, regulations requiring the:

(a) Establishment and implementation of site safety plans and procedures for the erection and dismantling of tower cranes;

(b) Establishment of a clear zone around the erection, dismantling or other highly hazardous lifts with a crane;

(c) Annual certification of the mechanical lifting parts of the crane; and

(d) Certification of tower cranes each time a tower crane is erected and additional annual certifications of tower cranes while they continue to be in use.

2. Except as otherwise provided in subsection 3:

(a) The Division shall adopt regulations requiring the establishment and implementation of programs for the certification of all persons who operate:

(1) Tower cranes; or

(2) Mobile cranes having a usable boom length of 25 feet or greater or a maximum machine rated capacity of 15,000 pounds or greater.

(b) A person shall not operate a tower crane or a mobile crane described in subparagraph (2) of paragraph (a) unless the person holds certification as a crane operator issued pursuant to this subsection for the type of crane being operated.

(c) An applicant for certification as a crane operator must hold a certificate which:

(1) Is issued by an organization whose program of certification for crane operators:

(I) Is accredited by the National Commission for Certifying Agencies or an equivalent accrediting body approved by the Division; or

(II) Meets other criteria established by the Division; and

(2) Certifies that the person has met the standards to be a crane operator established by the American Society of Mechanical Engineers in its standards B30.3, B30.4 or B30.5 as adopted by regulation of the Division.

3. The provisions of subsection 2 do not apply to a person who:

(a) Is an employee of a utility while the person is engaged in work for or at the direction of the utility;

(b) Operates an electric or utility line truck that is regulated pursuant to 29 C.F.R. § 1910.269 or 29 C.F.R. Part 1926, Subpart V; or

(c) Operates an aerial or lifting device, whether or not self-propelled, that is designed and manufactured with the specific purpose of lifting one or more persons in a bucket or basket or on a ladder or platform and holding those persons in the lifted position while they perform tasks. Such devices include, without limitation:

(1) A bucket truck or lift;

(2) An aerial platform;

(3) A platform lift; or

(4) A scissors lift.

4. As used in this section, "utility" means any public or private utility, whether or not the utility is subject to regulation by the Public Utilities Commission of Nevada, that provides, at wholesale or retail:

(a) Electric service;

(b) Gas service;

(c) Water or sewer service;

(d) Telecommunication service, including, without limitation, local exchange service, long distance service and personal wireless service; or

(e) Television service, including, without limitation, community antenna television ***, cable television and other video*** service.

Sec. 107. NRS 624.218 is hereby amended to read as follows:

624.218 1. The Board shall adopt by regulation a classification of licensing for persons who construct or improve ~~[community antenna television systems.]~~ ***video service networks***. Except as otherwise provided in subsection 2, a person who engages in such construction, alteration or improvement must be licensed in this classification and may not be required to be licensed in any other classification.

2. The licensing requirements adopted pursuant to subsection 1 do not apply to a person who is engaged solely in the alteration or repair of antennae used by a community antenna television system.

3. As used in this section, "video service network" has the meaning ascribed to it in section 26 of this act.

Sec. 108. 1. NRS 318.1193, 318.1194, 354.598811, 711.185, 711.190, 711.200, 711.210, 711.230 and 711.250 are hereby repealed.

2. Section 2.290 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, at page 63, is hereby repealed.

3. Section 2.320 of the Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 612, is hereby repealed.

4. Section 2.280 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, at page 300, is hereby repealed.

5. Section 2.350 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, as amended by chapter 51, Statutes of Nevada 2001, at page 460, is hereby repealed.

6. Section 2.300 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, at page 410, is hereby repealed.

7. Section 2.330 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1405, is hereby repealed.

8. Section 2.300 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, at page 1219, is hereby repealed.

9. Section 2.320 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, at page 466, is hereby repealed.

10. Section 2.300 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, as amended by chapter 184, Statutes of Nevada 1985, at page 645, is hereby repealed.

Sec. 109. On or before October 1, 2007, the Secretary of State shall adopt any regulations that are necessary to carry out the provisions of this act.

Sec. 110. This act becomes effective upon passage and approval.

LEADLINES OF REPEALED SECTIONS

318.1193 Facilities for television: Limitation on organization if area includes existing service.

318.1194 Facilities for television: Approval of electors required in certain districts for franchise for community antenna television system.

354.598811 Limitations on fees applicable to public utilities: "Community antenna television company" defined.

711.185 Governing body may grant exclusive franchise.

711.190 Franchise granted by city or county: Conditions; requirements.

711.200 Fees for franchise.

711.210 Renewal of franchise.

711.230 Considerations in granting franchise.

711.250 Adoption of ordinance to establish procedure to resolve complaints of subscribers; notice.

Caliente City Charter Sec. 2.290 Powers of City Council: Television franchises.

Carlin City Charter Sec. 2.320 Powers of Board of Councilmen: Television franchises.

Carson City Charter Sec. 2.280 Power of Board: Television franchises.

Elko City Charter Sec. 2.350 Powers of City Council: Television franchises.

Henderson City Charter Sec. 2.300 Powers of City Council: Television franchises.

Las Vegas City Charter Sec. 2.330 Powers of City Council: Television franchises.

North Las Vegas City Charter Sec. 2.300 Powers of City Council: Television franchises.

Wells City Charter Sec. 2.320 Powers of Board of Councilmen: Television franchises.

Yerington City Charter Sec. 2.300 Powers of City Council: Franchises for television and cable television.

Assemblyman Oceguera moved that the Assembly concur in the Senate Amendment No. 991 to Assembly Bill No. 526.

Remarks by Assemblyman Oceguera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 562.

The following Senate amendment was read:

Amendment No. 564.

AN ACT relating to real estate; revising provisions governing persons regulated by the Real Estate Division of the Department of Business and Industry; imposing certain notification requirements on such persons; authorizing the limited disclosure of certain confidential information; increasing the maximum administrative fines that may be imposed for certain violations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Real Estate Division of the Department of Business and Industry is responsible for regulating various persons who work in the real estate industry in this State. (Chapters 116A, 119, 119A, 119B, 645, 645C and 645D of NRS) Sections 1, 9, 13, 15, 19, 23 and 27 of this bill require that persons regulated under those chapters notify the Division in writing if they are convicted of, or enter a plea of guilty or nolo contendere to, certain crimes. Sections 5, 10, 14, 16, 18, 22 and 26 of this bill provide that certain confidential information concerning complaints filed against such persons and investigations of those complaints may be disclosed for certain limited purposes, including disclosure as necessary to administer certain statutory provisions or to a licensing board or a law enforcement or other governmental agency that is investigating such persons. Sections 6 and 12 of this bill increase the maximum administrative fines that may be imposed for certain violations.

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

Section 1. Chapter 645 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A licensee, property manager or owner-developer shall notify the Division in writing if he is convicted of, or enters a plea of guilty or nolo contendere to:

(a) A felony relating to the practice of the licensee, property manager or owner-developer; or

(b) Any crime involving fraud, deceit, misrepresentation or moral turpitude.

2. A licensee, property manager or owner-developer shall submit the notification required by subsection 1:

(a) Not more than 10 days after the conviction or entry of the plea of guilty or nolo contendere; and

(b) When submitting an application to renew a license, permit or registration issued pursuant to this chapter.

Sec. 2. NRS 645.440 is hereby amended to read as follows:

645.440 1. If the Division, after an application for a license in proper form has been filed with it, accompanied by the proper fee, denies an application, the Division shall give notice of the ~~[fact]~~ ***denial*** to the applicant within 15 days after its ruling, order or decision.

2. Upon written request from the applicant, filed within 30 days after receipt of that notice by the applicant, the President of the Commission shall set the matter for a hearing to be conducted ~~[within 90 days]~~ ***at the next meeting of the Commission held pursuant to NRS 645.150*** after receipt of the applicant's request if the request ***is received at least ~~[15]~~ 20 days before the meeting and*** contains allegations which, if true, qualify the applicant for a license.

3. The hearing must be held at such time and place as the Commission prescribes. At least 15 days before the date set for the hearing, the Division shall notify the applicant and shall accompany the notification with an exact copy of any protest filed, together with copies of all communications, reports, affidavits or depositions in the possession of the Division relevant to the matter in question. Written notice of the hearing may be served by delivery personally to the applicant, or by mailing it by certified mail to the last known address of the applicant.

4. The hearing may be held by the Commission or by a majority of its members, and a hearing must be held, if the applicant so desires. A record of the proceedings, or any part thereof, must be made available to each party upon the payment to the Division of the reasonable cost of transcription.

5. The Commission shall render a written decision on any appeal within 60 days after the final hearing and shall notify the parties to the proceedings, in writing, of its ruling, order or decision within 15 days after it is made.

6. If an applicant has made a false statement of material fact on his application, the false statement may in itself be sufficient ground for refusal of a license.

Sec. 3. NRS 645.575 is hereby amended to read as follows:

645.575 1. The Commission shall adopt regulations that prescribe the standards for the continuing education of persons licensed pursuant to this chapter. ~~[Until the Commission adopts such regulations, the standards for continuing education are as follows:~~

~~(a) For renewal of a license which is on active status, a requirement for the hours of attendance at any approved educational course, seminar or conference of:~~

~~(1) Thirty hours within the first year immediately after initial licensing; and~~

~~(2) Fifteen hours within each subsequent 2-year period before renewal.~~

~~➥ For each period, at least 6 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate.~~

~~(b) For reinstatement of a license which has been placed on inactive status, a requirement for total attendance at any approved educational course, seminar or conference of:~~

~~(1) Thirty hours if the license was on inactive status for 2 years or less during the initial license period;~~

~~(2) Fifteen hours if the license was on inactive status for a period of 2 years or less, no part of which was during the initial license period;~~

~~(3) Forty five hours if the license was on inactive status for a period of more than 2 years, part of which was during the initial license period; or~~

~~(4) Thirty hours if the license was on inactive status for a period of more than 2 years, no part of which was during the initial license period.~~

~~➥ For each period, at least 6 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate.~~

~~(c) A basis and method of qualifying educational programs and certifying attendance which will satisfy the requirements of this section.~~

~~(d) A procedure for the evaluation of petitions based on a claim of equivalency with the requirements of paragraph (a) or (b).~~

~~(e) A system of controlling and reporting qualifying attendance.~~

~~(f) A statement of the conditions for which an extension of time may be granted to comply with the continuing education requirements as well as a method of applying and qualifying for an extension.]~~

2. The standards ~~[prescribed in]~~ ***adopted pursuant to*** subsection 1 must permit alternatives of subject material, taking cognizance of specialized areas of practice and alternatives in sources of programs considering availability in area and time. The standards must include, where qualified, generally accredited educational institutions, private vocational schools, educational programs and seminars of professional societies and organizations, other organized educational programs on technical subjects, or equivalent offerings. The Commission shall qualify only those educational courses that it determines address the appropriate subject matter and are given by an accredited university or community college. Subject to the provisions of this section, the Commission has exclusive authority to determine what is an appropriate subject matter for qualification as a continuing education course.

3. In addition to any other standards for continuing education that the Commission adopts by regulation pursuant to this section, the Commission may, without limitation, adopt by regulation standards for continuing education that:

(a) Establish a postlicensing curriculum of continuing education which must be completed by a person within the first year immediately after initial licensing of the person.

(b) Require a person whose license as a real estate broker or real estate broker-salesman has been placed on inactive status for any reason for 1 year or more or has been suspended or revoked to complete a course of instruction in broker management that is designed to fulfill the educational requirements for issuance of a license which are described in paragraph (d) of subsection 2 of NRS 645.343, before the person's license is reissued or reinstated.

4. Except as otherwise provided in this subsection, the license of a real estate broker, broker-salesman or salesman must not be renewed or reinstated unless the Administrator finds that the applicant for the renewal license or for reinstatement to active status has completed the continuing education required by this chapter. Any amendment or repeal of a regulation does not operate to prevent an applicant from complying with this section for the next licensing period following the amendment or repeal.

Sec. 4. NRS 645.6052 is hereby amended to read as follows:

645.6052 1. A person who is licensed pursuant to this chapter as a real estate broker, real estate broker-salesman or real estate salesman may apply to the Real Estate Division for a permit to engage in property management.

2. An applicant for a permit must:

(a) Furnish proof satisfactory to the Division that he has successfully completed at least 24 classroom hours of instruction in property management; and

(b) Comply with all other requirements established by the Commission for the issuance of a permit.

3. A permit expires, and may be renewed, at the same time as the license of the holder of the permit.

4. An applicant for the renewal of a permit must:

(a) Furnish proof satisfactory to the Division that he has successfully completed at least 3 of the hours of the continuing education required for the renewal of his license pursuant to ***the regulations adopted by the Commission pursuant to*** NRS 645.575 in an approved educational course, seminar or conference concerning property management; and

(b) Comply with all other requirements established by the Commission for the renewal of a permit.

5. The Commission may adopt such regulations as it determines are necessary to carry out the provisions of this section. The regulations may, without limitation:

(a) Establish additional requirements for the issuance or renewal of a permit.

(b) Establish fees for the issuance and renewal of a permit and fees to pay the costs of:

(1) Any examination for a permit, including any costs which are necessary for the administration of such an examination.

(2) Any investigation of an applicant's background.

(c) Set forth standards of education for the approval of a course of instruction to qualify an applicant for a permit.

Sec. 5. NRS 645.625 is hereby amended to read as follows:

645.625 1. Except as otherwise provided in this section, a complaint filed with the Division alleging a violation of this chapter, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential ~~[.]~~ ***and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a license, permit or registration issued pursuant to this chapter.***

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

Sec. 6. NRS 645.630 is hereby amended to read as follows:

645.630 1. The Commission may require a licensee, property manager or owner-developer to pay an administrative fine of not more than ~~[$5,000]~~ ***$10,000*** for each violation he commits or suspend, revoke, deny the renewal of or place conditions upon his license, permit or registration, or impose any combination of those actions, at any time if the licensee, property manager or owner-developer has, by false or fraudulent representation, obtained a license, permit or registration, or the licensee, property manager or owner-developer, whether or not acting as such, is found guilty of:

(a) Making any material misrepresentation.

(b) Making any false promises of a character likely to influence, persuade or induce.

(c) Accepting a commission or valuable consideration as a real estate broker-salesman or salesman for the performance of any of the acts specified in this chapter or chapter 119 or 119A of NRS from any person except the licensed real estate broker with whom he is associated or the owner-developer by whom he is employed.

(d) Representing or attempting to represent a real estate broker other than the broker with whom he is associated, without the express knowledge and consent of the broker with whom he is associated.

(e) Failing to maintain, for review and audit by the Division, each brokerage agreement and property management agreement governed by the provisions of this chapter and entered into by the licensee.

(f) Failing, within a reasonable time, to account for or to remit any money which comes into his possession and which belongs to others.

(g) If he is required to maintain a trust account:

(1) Failing to balance the trust account at least monthly; and

(2) Failing to submit to the Division an annual accounting of the trust account as required in NRS 645.310.

(h) Commingling the money or other property of his clients with his own or converting the money of others to his own use.

(i) In the case of a broker-salesman or salesman, failing to place in the custody of his licensed broker or owner-developer, as soon as possible, any deposit or other money or consideration entrusted to him by any person dealing with him as the representative of his licensed broker.

(j) Accepting other than cash as earnest money unless that fact is communicated to the owner before his acceptance of the offer to purchase and that fact is shown in the receipt for the earnest money.

(k) Upon acceptance of an agreement, in the case of a broker, failing to deposit any check or cash received as earnest money before the end of the next banking day unless otherwise provided in the purchase agreement.

(l) Inducing any party to a brokerage agreement, property management agreement, agreement of sale or lease to break it in order to substitute a new brokerage agreement, property management agreement, agreement of sale or lease with the same or another party if the inducement to make the substitution is offered to secure personal gain to the licensee or owner-developer.

2. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 7. NRS 645.685 is hereby amended to read as follows:

645.685 1. The licensee, permittee or owner-developer shall file an answer to the charges with the Commission ~~[no]~~ ***not*** later than 30 days after service of the notice and other documents described in subsection 4 of NRS 645.680. The answer must contain an admission or denial of the allegations contained in the complaint and any defenses upon which the licensee, permittee or owner-developer will rely. If no answer is filed within the ~~[time limit]~~ ***period*** described in this subsection, the Division may, after notice to the licensee, permittee or owner-developer served in the manner authorized in subsection 5 of NRS 645.680, move the Commission for the entry of a default against the licensee, permittee or owner-developer.

2. The answer may be served by delivery to the Commission, or by mailing the answer by certified mail to the principal office of the Division.

3. No proceeding to suspend, revoke or deny the renewal of any license or registration of an owner-developer may be maintained unless it is commenced by the giving of notice to the licensee, permittee or owner-developer within ~~[3 years of the time]~~ ***5 years after the date*** of the act charged, whether of commission or omission, except:

(a) If the charges are based upon a misrepresentation, or failure to disclose, the period does not commence until the discovery of facts which do or should lead to the discovery of the misrepresentation or failure to disclose; and

(b) Whenever any action or proceeding is instituted to which the Division, licensee, permittee or owner-developer is a party and which involves the conduct of the licensee, permittee or owner-developer in the transaction with which the charges are related, the running of the ~~[3 year]~~ ***5-year*** period with respect to the institution of a proceeding pursuant to this chapter to suspend, revoke or deny the renewal of the license, permit or registration is suspended during the pendency of the action or proceeding.

Sec. 8. NRS 645.863 is hereby amended to read as follows:

645.863 1. A person who is licensed as a real estate broker, real estate broker-salesman or real estate salesman pursuant to this chapter may apply to the Real Estate Division for a permit to engage in business as a business broker.

2. An applicant for a permit must:

(a) Provide proof satisfactory to the Real Estate Division that he has successfully completed at least 24 hours of ~~[classroom]~~ instruction relating to business brokerage; and

(b) Comply with any other requirements for the issuance of a permit established by the Commission.

3. A permit expires on the same date as the license of the holder of the permit expires. A permit may be renewed at the time that a person licensed pursuant to this chapter applies for renewal of his license.

4. An applicant for the renewal of a permit must:

(a) Provide proof satisfactory to the Real Estate Division that he has successfully completed at least 3 hours of continuing education required for the renewal of his license pursuant to ***the regulations adopted by the Commission pursuant to*** NRS 645.575 in an approved educational course, seminar or conference relating to business brokerage.

(b) Comply with any other requirements for renewal of a permit established by the Commission.

5. The Commission shall adopt such regulations as are necessary to carry out the provisions of this section. The regulations must include, without limitation, provisions that establish:

(a) Requirements for the issuance or renewal of a permit.

(b) Fees for:

(1) The issuance or renewal of a permit;

(2) The cost of any examination required of an applicant for a permit, including, without limitation, any costs which are necessary for the administration of an examination; and

(3) The cost of any investigation of an applicant for a permit.

(c) Standards of education for the approval of a course of instruction to qualify an applicant for the issuance or renewal of a permit.

Sec. 9. Chapter 645C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A certified or licensed appraiser or registered intern shall notify the Division in writing if he is convicted of, or enters a plea of guilty or nolo

contendere to, a felony relating to the practice of appraisers or any offense involving moral turpitude.

2. A certified or licensed appraiser or registered intern shall submit the notification required by subsection 1:

(a) Not more than 10 days after the conviction or entry of the plea of guilty or nolo contendere; and

(b) When submitting an application to renew a certificate, license or registration card issued pursuant to this chapter.

Sec. 10. NRS 645C.225 is hereby amended to read as follows:

645C.225 1. Except as otherwise provided in this section, a complaint filed with the Commission, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential ~~[.]~~ ***and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a certificate, license or registration card issued pursuant to this chapter.***

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

Sec. 11. NRS 645C.410 is hereby amended to read as follows:

645C.410 1. If an intern for any reason terminates his association with an appraiser, the appraiser shall:

(a) Immediately deliver or mail by certified mail to the Division the intern's registration card, together with a written statement of the circumstances surrounding the termination of the association and a copy of the notice required by paragraph (b); and

(b) At the time of delivering or mailing the registration card to the Division, advise the intern that his registration card has been forwarded to the Division by mailing notice of that fact to the intern's last known residential address.

2. The registration card must be suspended if the intern does not become associated with another certified ~~[or licensed]~~ appraiser within ~~[30]~~ ***60*** days after the termination of his previous association.

3. The intern shall not assist in the preparation or communication, whether directly or indirectly, of an appraisal under the authority of his registration card from the date that the registration card is delivered or mailed by the appraiser with whom his association was terminated to the Division, until the date that a new registration card is issued naming another appraiser with whom the intern has become associated.

Sec. 12. NRS 645C.460 is hereby amended to read as follows:

645C.460 1. Grounds for disciplinary action against a certified or licensed appraiser or registered intern include:

(a) Unprofessional conduct;

(b) Professional incompetence;

(c) A criminal conviction for a felony relating to the practice of appraisers or any offense involving moral turpitude; and

(d) The suspension or revocation of a registration card, certificate, license or permit to act as an appraiser in any other jurisdiction.

2. If grounds for disciplinary action against an appraiser or intern exist, the Commission may do one or more of the following:

(a) Revoke or suspend his certificate, license or registration card.

(b) Place conditions upon his certificate, license or registration card, or upon the reissuance of a certificate, license or registration card revoked pursuant to this section.

(c) Deny the renewal of his certificate, license or registration card.

(d) Impose a fine of not more than ~~[$1,000]~~ ***$10,000*** for each violation.

3. If a certificate, license or registration card is revoked by the Commission, another certificate, license or registration card must not be issued to the same appraiser or intern for at least 1 year after the date of the revocation, or at any time thereafter except in the sole discretion of the Administrator, and then only if the appraiser or intern satisfies all the requirements for an original certificate, license or registration card.

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 13. Chapter 645D of NRS is hereby amended by adding thereto a new section to read as follows:

1. A certified inspector shall notify the Division in writing if he is convicted of, or enters a plea of guilty or nolo contendere to, a felony or any offense involving moral turpitude.

2. A certified inspector shall submit the notification required by subsection 1:

(a) Not more than 10 days after the conviction or entry of the plea of guilty or nolo contendere; and

(b) When submitting an application to renew a certificate issued pursuant to this chapter.

Sec. 14. NRS 645D.135 is hereby amended to read as follows:

645D.135 1. Except as otherwise provided in this section, a complaint filed with the Division, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential ~~[.]~~ ***and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a certificate issued pursuant to this chapter.***

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

Sec. 15. Chapter 116A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A community manager who holds a certificate and a reserve study specialist who holds a permit shall notify the Division in writing if he is convicted of, or enters a plea of guilty or nolo contendere to, a felony or any offense involving moral turpitude.

2. A community manager or reserve study specialist shall submit the notification required by subsection 1 not more than 10 days after the conviction or entry of the plea of guilty or nolo contendere.

Sec. 16. NRS 116A.270 is hereby amended to read as follows:

116A.270 1. Except as otherwise provided in this section, a complaint filed with the Division alleging a violation of this chapter or chapter 116 of NRS, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential ~~[.]~~ ***and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a certificate or permit issued pursuant to this chapter.***

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

Sec. 17. Chapter 119 of NRS is hereby amended by adding thereto the provisions set forth as sections 18 and 19 of this act.

Sec. 18. ***1. Except as otherwise provided in this section, a complaint filed with the Division alleging a violation of this chapter, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a license or permit issued pursuant to this chapter.***

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

Sec. 19. ***1. A developer or registered representative shall notify the Division in writing if he is convicted of, or enters a plea of guilty or nolo contendere to, a felony or any offense involving moral turpitude.***

2. A developer or registered representative shall submit the notification required by subsection 1:

(a) Not more than 10 days after the conviction or entry of the plea of guilty or nolo contendere; and

(b) When submitting an application to renew a license, permit or registration issued pursuant to this chapter.

Sec. 20. NRS 119.182 is hereby amended to read as follows:

119.182 1. The information submitted pursuant to NRS 119.140 must be given to and reviewed with each purchaser by the broker or salesman before the execution of any contract for the sale of any such property. The broker shall obtain from the purchaser a signed receipt for a copy of the information and, if a contract for disposition is entered into, the receipt and a copy of all contracts and agreements must be kept in the broker's files within the State of Nevada for 3 years or 1 year after final payment has been made on any contract for the sale of property, whichever is longer, and is subject to such inspection and audit as may be prescribed by regulations of the Division.

2. The purchaser of any subdivision or any lot, parcel, unit or interest in any subdivision, not exempted under the provisions of NRS 119.120 or 119.122 may cancel, by written notice, the contract of sale until midnight of the fifth calendar day following the date of execution of the contract, and the contract must so provide. The right of cancellation may not be waived. Any attempt by the developer to obtain such a waiver results in a contract which is voidable by the purchaser.

3. The notice of cancellation may be delivered personally to the developer or sent by certified mail ~~[or telegram]~~ ***, return receipt requested,*** to the business address of the developer.

4. The developer shall, within 15 days after receipt of the notice of cancellation, return all payments made by the purchaser.

Sec. 21. Chapter 119A of NRS is hereby amended by adding thereto the provisions set forth as sections 22 and 23 of this act.

Sec. 22. ***1. Except as otherwise provided in this section, a complaint filed with the Division alleging a violation of this chapter, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a license, registration or permit issued pursuant to this chapter.***

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

Sec. 23. ***1. A sales agent, representative, manager, developer or project broker shall notify the Division in writing if he is convicted of, or enters a plea of guilty or nolo contendere to, a felony or any crime involving moral turpitude.***

2. A sales agent, representative, manager, developer or project broker shall submit the notification required by subsection 1:

(a) Not more than 10 days after the conviction or entry of the plea of guilty or nolo contendere; and

(b) When submitting an application to renew a license, registration or permit issued pursuant to this chapter.

Sec. 24. NRS 119A.410 is hereby amended to read as follows:

119A.410 1. The purchaser of a time share may cancel, by written notice, the contract of sale until midnight of the fifth calendar day following the date of execution of the contract. The contract of sale must include a statement of this right.

2. The right of cancellation may not be waived. Any attempt by the developer to obtain a waiver results in a contract which is voidable by the purchaser.

3. The notice of cancellation may be delivered personally to the developer or sent by certified mail ~~[or telegram]~~ ***, return receipt requested,*** to the business address of the developer.

4. The developer shall, within 15 days after receipt of the notice of cancellation, return all payments made by the purchaser.

Sec. 25. Chapter 119B of NRS is hereby amended by adding thereto the provisions set forth as sections 26 and 27 of this act.

Sec. 26. ***1. Except as otherwise provided in this section, a complaint filed with the Division alleging a violation of this chapter, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential and may be disclosed in whole or in part only as necessary in the course of administering this chapter or to a licensing board or agency or any other governmental agency, including, without limitation, a law enforcement agency, that is investigating a person who holds a permit issued pursuant to this chapter.***

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

Sec. 27. ***1. A developer shall notify the Division in writing if he is convicted of, or enters a plea of guilty or nolo contendere to, a felony or any crime involving moral turpitude.***

2. A developer shall submit the notification required by subsection 1:

(a) Not more than 10 days after the conviction or entry of the plea of guilty or nolo contendere; and

(b) When submitting an application to renew a permit issued pursuant to this chapter.

Assemblyman Oceguera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 562.

Remarks by Assemblyman Oceguera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 592.

The following Senate amendment was read:

Amendment No. 772.

SUMMARY— ~~[Provides for contracting licenses for]~~ **Requires the State Contractors' Board to adopt certain regulations concerning** the abatement or removal of asbestos. (BDR 54-1200)

AN ACT relating to contractors; ~~[requiring the State Contractors' Board to designate a contracting classification for licenses that authorize the licensee to abate or remove asbestos;]~~ requiring the **State Contractors'** Board to establish a specific limit on the amount of asbestos that a contractor not licensed to remove asbestos may remove; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for contracting licenses to be classified as licenses for general engineering contracting, general building contracting or specialty contracting. (NRS 624.215) Existing law also authorizes the State Contractors' Board to limit the field and scope of work that may be done pursuant to a specific contracting license. (NRS 624.220) Existing law authorizes a licensed specialty contractor to perform work outside the field and scope for which the contractor is licensed if the work is incidental and supplemental to the performance of work for which the contractor is licensed. (NRS 624.220)

~~[This bill requires the Board to adopt regulations designating a specialty contracting classification for licenses that authorize the licensee to abate or remove asbestos.]~~ This bill ~~[also]~~ requires the Board to adopt regulations establishing a specific limit on the amount of asbestos that a contractor not licensed to remove asbestos may remove.

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

Section 1. NRS 624.220 is hereby amended to read as follows:

624.220 1. The Board shall adopt regulations necessary to effect the classification and subclassification of contractors in a manner consistent with established usage and procedure as found in the construction business, and may limit the field and scope of the operations of a licensed contractor to those in which he is classified and qualified to engage as defined by NRS 624.215 and the regulations of the Board.

2. The Board shall limit the field and scope of the operations of a licensed contractor by establishing a monetary limit on a contractor's license, and the limit must be the maximum contract a licensed contractor may undertake on one or more construction contracts on a single construction site or subdivision site for a single client. The Board may take any other action designed to limit the field and scope of the operations of a contractor as may be necessary to protect the health, safety and general welfare of the public. The limit must be determined after consideration of the factors set forth in NRS 624.260 to 624.265, inclusive.

3. A licensed contractor may request that the Board increase the monetary limit on his license, either on a permanent basis or for a single construction project. A request submitted to the Board pursuant to this subsection must be in writing on a form prescribed by the Board and accompanied by such supporting documentation as the Board may require. If a request submitted pursuant to this section is for a single construction project, the request must be submitted to the Board at least 2 working days before the date on which the licensed contractor intends to submit his bid for the project.

4. ~~[Nothing]~~ ***Subject to the provisions of regulations adopted pursuant to subsection 5, nothing*** contained in this section prohibits a specialty contractor from taking and executing a contract involving the use of two or more crafts or trades, if the performance of the work in the crafts or trades, other than in which he is licensed, is incidental and supplemental to the performance of work in the craft for which the specialty contractor is licensed.

5. The Board shall adopt regulations ~~*[:*~~

~~*(a) Designating a specialty contracting classification for licenses that authorize the licensee to abate or remove asbestos; and*~~

~~*(b) Establishing]*~~ ***establishing a specific limit on the amount of asbestos that a licensed contractor with a license that is not classified*** ~~*[pursuant to paragraph (a)]*~~ ***for the abatement or removal of asbestos may abate or remove pursuant to subsection 4.***

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

Assemblyman Oceguera moved that the Assembly concur in the Senate amendment to Assembly Bill No. 592.

Remarks by Assemblyman Oceguera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 244.

The following Senate amendment was read:

Amendment No. 952.

AN ACT relating to education; revising provisions governing the review of school districts based upon certain financial management principles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that to the extent money is made available by the Legislature, each school district in this State must undergo a review every 6 years to determine whether the school district is successfully carrying out certain financial management principles. (NRS 387.602-387.644) A school district may, under certain circumstances, be exempt from the 6-year review and undergo the review every 12 years. (NRS 387.631, 387.639) Upon completion of the review of a school district, the consultant who conducted the review must submit a preliminary report of the review to the superintendent of schools of the school district for the superintendent to prepare a written response. The preliminary report and the final report must be made available to the general public. (NRS 387.631) This bill revises provisions governing the preliminary report of the review and requires the consultant to submit the preliminary report to the superintendent of the school district or the superintendent's designee for preparation of a written response of the school district. This bill also ~~[makes the preliminary report confidential.]~~ **requires the consultant to submit a summary of the preliminary report to the Legislative Committee on Education for its review.**

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

Section 1. NRS 387.631 is hereby amended to read as follows:

387.631 1. The consultant shall complete the review of a school district within 6 months after the date on which the review is commenced. The consultant shall prepare a final written report of the review that:

(a) Is documented by sufficient, competent and relevant evidence to provide a reasonable basis for the findings and conclusions of the consultant.

(b) If the consultant determines that the school district is not successfully carrying out the management principles in one or more of the areas set forth in subsection 2 of NRS 387.622, includes a plan for corrective action for the school district to carry out successfully the management principles in each area within 2 years. The plan must:

(1) Be logically connected to and substantiated by the results of the review;

(2) Be specific and detailed; and

(3) Identify methods for the school district to reduce its costs and expenses.

(c) Includes the written response of the school district prepared pursuant to subsection 2.

2. The consultant shall furnish a copy of the preliminary report of the review to the superintendent of schools of the school district ***or the superintendent's designee and discuss the report with the*** ~~[superintendent.]~~ ***superintendent or the superintendent's designee. The consultant shall submit a summary of the preliminary report to the Legislative Committee on Education for its review.*** Within 30 days after receipt of the preliminary report, the superintendent ~~[shall, in consultation with the board of trustees of the school district,]~~ ***or the superintendent's designee shall*** prepare a written response to the preliminary report that includes a statement of explanation or rebuttal of any findings contained in the preliminary report. The consultant shall include the written response of the school district in his final written report submitted pursuant to subsection 1.

3. The final written report of the consultant must be submitted to the board of trustees of the school district, the State Board, the Legislative Auditor and the Director of the Legislative Counsel Bureau for transmission to the Legislature within 60 days after the review is complete.

4. If the consultant determines that a school district is successfully carrying out the management principles for each of the areas set forth in subsection 2 of NRS 387.622, the school district is exempt from its next 6-year review unless the Legislature subsequently determines that the conditions or circumstances occurring within the school district warrant another review pursuant to NRS 387.602 to 387.644, inclusive. If a school district is exempt pursuant to this subsection, the exemption is valid for only one review and the school district must undergo a review at least once every 12 years.

5. The ~~[preliminary report]~~ ~~[and the]~~ ~~*[is confidential. The]*~~ final report must be made available to the general public.

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

Assemblywoman Parnell moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 244.

Remarks by Assemblywoman Parnell.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 386.

The following Senate amendment was read:

Amendment No. 815.

AN ACT relating to interscholastic events; requiring the Nevada Interscholastic Activities Association to adopt regulations governing spirit squads; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Nevada Interscholastic Activities Association to adopt regulations that are necessary to control, supervise and regulate all

interscholastic events at public schools, charter schools, private schools and parochial schools in Nevada. (NRS 386.420-386.470) Pursuant to that authority, the Association has adopted regulations governing the activities of cheerleaders and other members of a spirit squad at those schools. (NAC 386.754-386.7548)

Section 1 of this bill requires the Association to adopt regulations setting forth the standards of safety for each event, competition or other activity engaged in by a spirit squad and the qualifications required for a person to become a coach of a spirit squad. **Section 5 of this bill requires each spirit squad and each person who is a coach of a spirit squad to comply with those regulations on or before July 1, 2008.**

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

Section 1. NRS 386.430 is hereby amended to read as follows:

386.430 1. The Nevada Interscholastic Activities Association shall adopt rules and regulations in the manner provided for state agencies by chapter 233B of NRS ~~[,]~~ as may be necessary to carry out the provisions of NRS 386.420 to 386.470, inclusive. The regulations must include provisions governing the eligibility and participation of homeschooled children in interscholastic activities and events.

2. ***The Nevada Interscholastic Activities Association shall adopt regulations setting forth:***

(a) The standards of safety for each event, competition or other activity engaged in by a spirit squad of a school that is a member of the Nevada Interscholastic Activities Association ~~*[;]*~~ ***, which must substantially comply with the spirit rules of the National Federation of State High School Associations, or its successor organization; and***

(b) The qualifications required for a person to become a coach of a spirit squad.

3. ~~*[The regulations adopted pursuant to subsection 2 must:*~~

~~*(a) Substantially comply with the spirit rules of the National Federation of State High School Associations, or its successor organization, and the qualifications for coaching of the American Association of Cheerleading Coaches and Administrators, or its successor organization; and*~~

~~*(b) Provide for the regulation of the activities of spirit squads as an athletic activity.*~~

~~*4.]*~~ If the Nevada Interscholastic Activities Association intends to adopt, repeal or amend a policy, rule or regulation concerning or affecting homeschooled children, the Association shall consult with the Northern Nevada Homeschool Advisory Council and the Southern Nevada Homeschool Advisory Council, or their successor organizations, to provide those Councils with a reasonable opportunity to submit data, opinions or arguments, orally or in writing, concerning the proposal or change. The

Association shall consider all written and oral submissions respecting the proposal or change before taking final action.

~~[5.]~~ ***4.*** ***As used in this section, "spirit squad" means any team or other group of persons that is formed for the purpose of:***

(a) Leading cheers or rallies to encourage support for a team that participates in a sport that is sanctioned by the Nevada Interscholastic Activities Association; or

(b) Participating in a competition against another team or other group of persons to determine the ability of each team or group of persons to engage in an activity specified in paragraph (a).

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. **1. Each spirit squad of a school that is a member of the Nevada Interscholastic Activities Association shall, on or before July 1, 2008, comply with the regulations adopted by the Association pursuant to NRS 386.430, as amended by section 1 of this act.**

2. Each person who is a coach of a spirit squad shall, on or before July 1, 2008, comply with the regulations adopted by the Nevada Interscholastic Activities Association pursuant to NRS 386.430, as amended by section 1 of this act.

~~[Sec. 5.]~~ ***Sec. 6.*** This act becomes effective on July 1, 2007.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 386.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 585.

The following Senate amendment was read:

Amendment No. 713.

AN ACT relating to public financial administration; providing the rate of interest to be paid on overpayments of taxes on real or personal property; making various changes to other provisions governing taxes on real or personal property; **making various changes concerning certain agreements and claims regarding unclaimed property held by a county treasurer;** revising provisions governing calculation of the interest that a public body must pay to a contractor on amounts withheld from progress payments on public works; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, unless a specific statute provides otherwise, a taxpayer is entitled to interest on an overpayment of taxes at a rate equal to the prime rate plus 2 percent. (NRS 360.2935) Section ~~[1]~~ **2** of this bill provides that

the rate of interest to be paid on overpayments of real or personal property taxes is 0.5 percent per month.

Section 3 of this bill requires that a person who enters into certain agreements to locate, deliver, recover or assist in the recovery of any remaining excess proceeds of a sale by a county treasurer of real property for which delinquent property taxes have not been paid must be licensed as a private investigator in this State.

Under existing law, a taxpayer who wishes to have certain determinations concerning partial abatements from taxation reviewed must submit a written petition to the county tax receiver. (NRS 361.4734) Section ~~[2]~~ **4** of this bill requires such a petition to be submitted to the county assessor instead of the tax receiver.

Under existing law, small overpayments or deficiencies of personal property taxes do not have to be refunded to or collected from a taxpayer. (NRS 361.485) Section ~~[3]~~ **5** of this bill provides similar treatment for overpayments or deficiencies of real property taxes.

Section ~~[4]~~ **6** of this bill provides a county and its officers and employees with immunity from liability for failure to provide actual notice of delinquent taxes in accordance with NRS 361.5648 under certain circumstances.

Existing law requires the tax receiver of a county to issue to the county treasurer each year a trustee's certificate which describes each property on which delinquent taxes have not been paid. (NRS 361.570) Section ~~[5]~~ **7** of this bill requires that the certificate include not just taxes, but also penalties, interest and costs that have not been paid.

Existing law authorizes certain reconveyances of property held in trust by a county treasurer on which delinquent taxes have not been paid. (NRS 361.585) Section 8 of this bill revises the categories of persons to whom such a reconveyance may be made and repeals the requirements for an agreement to locate, deliver, recover or assist in the recovery of such property.

Section ~~[9]~~ **11** of this bill eliminates the requirement in NRS 361.605 that a county treasurer file with the county auditor a monthly statement of the amount of property sold and rents collected from property that the county treasurer is holding in trust for nonpayment of taxes.

Existing law provides for the disposition of the proceeds of a sale by a county treasurer of real property on which delinquent taxes have not been paid. (NRS 361.610) Section 12 of this bill establishes a procedure to recover any excess proceeds from such a sale and sets forth certain requirements for an agreement to locate, deliver, recover or assist in the recovery of such excess proceeds. Section 12 also provides that certain persons who are entitled to recover property from the county treasurer may authorize a person pursuant to a power of attorney, assignment or other legal instrument to file a claim and collect from the county treasurer any money owed to him, and provides immunity for a county for any losses resulting from the approval of such a claim if the claim is

paid by the county treasurer in accordance with the provisions of the legal instrument.

Section ~~[13]~~ **15** of this bill revises the method set forth in NRS 338.515 to calculate the interest that a public body must pay to a contractor on amounts withheld from progress payments on public works.

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

Section 1. Chapter 361 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 2 and 3 of this act.**

Sec. 2. 1. Except as otherwise provided in subsection 2 and NRS 361.485, interest must be paid on an overpayment of the taxes imposed by this chapter at the rate of 0.5 percent per month, or fraction thereof, from the last day of the calendar month in which the overpayment was made to the last day of the calendar month in which a refund is made.

2. No interest is allowed:

(a) On a refund of any penalty or interest paid by a taxpayer; or

(b) If the ex officio tax receiver determines that the overpayment was made intentionally or by reason of carelessness.

Sec. 3. 1. Any person who, pursuant to an agreement described in subsection 10 of NRS 361.610, locates, delivers, recovers or assists in the recovery of any remaining excess proceeds of a sale of property held in trust by a county treasurer by virtue of any deed made pursuant to the provisions of this chapter, including a person who files a claim for recovery of the remaining excess proceeds on behalf of any person described in subsection 4 of NRS 361.585, must be licensed as a private investigator pursuant to chapter 648 of NRS.

2. Any person who, pursuant to an agreement described in subsection 10 of NRS 361.610, files a claim for recovery of any remaining excess proceeds pursuant to NRS 361.610 must submit proof of compliance with the provisions of subsection 1 when he files the claim with the county treasurer. The county treasurer shall not accept a claim for recovery of the remaining excess proceeds without proof of compliance.

~~[Sec. 2.]~~ ***Sec. 4.*** NRS 361.4734 is hereby amended to read as follows:

361.4734 1. A taxpayer who is aggrieved by a determination of the applicability of a partial abatement from taxation pursuant to NRS 361.4722, 361.4723 or 361.4724 may, if the property which is the subject of that determination:

(a) Is not valued pursuant to NRS 361.320 or 361.323, submit a written petition for the review of that determination to the ~~[tax receiver]~~ ***county assessor*** of the county in which the property is located. The ~~[tax receiver shall, after consulting with the]~~ county assessor ~~[of that county regarding the determination and]~~ ***shall,*** within 30 days after receiving the petition, render a decision on the petition and notify the taxpayer of that decision.

(b) Is valued pursuant to NRS 361.320 or 361.323, submit a written petition for the review of that determination to the Department. The Department shall, within 30 days after receiving the petition, render a decision on the petition and notify the taxpayer of that decision.

2. A taxpayer who is aggrieved by a decision rendered by a ~~[tax receiver]~~ ***county assessor*** or the Department pursuant to subsection 1 may, within 30 days after receiving notice of that decision, appeal the decision to the Nevada Tax Commission.

3. A taxpayer who is aggrieved by a determination of the Nevada Tax Commission rendered on an appeal made pursuant to subsection 2 is entitled to a judicial review of that determination.

~~[Sec. 3.]~~ ***Sec. 5.*** NRS 361.485 is hereby amended to read as follows:

361.485 1. Whenever any tax is paid to the ex officio tax receiver, he shall appropriately record ~~[such]~~ ***the*** payment and the date thereof on the tax roll contiguously with the name of the person or the description of the property liable for ~~[such]~~ ***the*** taxes, and shall give a receipt for ~~[such]~~ ***the*** payment if requested by the taxpayer.

2. If the assessment roll is maintained on magnetic storage files in a computer system, the requirement of subsection 1 is met if the system is capable of producing, as printed output, the assessment roll with the dates of payments shown opposite the name of the person or the description of the property liable for ~~[such]~~ ***the*** taxes.

3. If the amount of ~~[an overpayment of taxes for]~~ ***taxes paid on*** personal property *:*

(a) Results in an overpayment that is less than the average cost of collecting property taxes in this State as determined by the Nevada Tax Commission, the ex officio tax receiver shall pay the amount of the overpayment into the county treasury ~~[,]~~ for the benefit of the general fund of the county, unless the taxpayer who made the overpayment requests a refund ~~[.]~~ ***within 6 months after the original payment.*** All interest paid on money deposited in the ~~[account]~~ ***county treasury*** pursuant to this ~~[subsection]~~ ***paragraph*** is the property of the county. ~~[All requests for refunds under this section must be made within 6 months after the original payment.~~

~~4. A deficiency in the amount of a payment of taxes for personal property,]~~

(b) Results in a deficiency, the amount of the deficiency, other than a payment for a penalty, must be exempted from collection if the amount of the deficiency is less than the average cost of collecting property taxes in this state as determined by the Nevada Tax Commission.

4. If the amount of taxes paid on real property:

(a) Results in an overpayment that does not exceed the amount due by more than $5, the ex officio tax receiver shall pay the amount of the overpayment into the county treasury for the benefit of the general fund of the county, unless the taxpayer who made the overpayment requests a refund within 6 months after the original payment. All interest paid on

money deposited in the county treasury pursuant to this paragraph is the property of the county.

(b) Results in a deficiency that is $5 or less than the amount due, the ex officio tax receiver may exempt the amount of the deficiency from collection.

~~[Sec. 4.]~~ ***Sec. 6.*** NRS 361.5648 is hereby amended to read as follows:

361.5648 1. Within 30 days after the first Monday in March of each year, with respect to each property on which the tax is delinquent, the tax receiver of the county shall mail notice of the delinquency by first-class mail to:

(a) The owner or owners of the property;

(b) The person or persons listed as the taxpayer or taxpayers on the tax rolls, at their last known addresses, if the names and addresses are known; and

(c) Each holder of a recorded security interest if the holder has made a request in writing to the tax receiver for the notice, which identifies the secured property by the parcel number assigned to it in accordance with the provisions of NRS 361.189.

2. The notice of delinquency must state:

(a) The name of the owner of the property, if known.

(b) The description of the property on which the taxes are a lien.

(c) The amount of the taxes due on the property and the penalties and costs as provided by law.

(d) That if the amount is not paid by the taxpayer or his successor in interest:

(1) The tax receiver will, at 5 p.m. on the first Monday in June of the current year, issue to the county treasurer, as trustee for the State and county, a certificate authorizing him to hold the property, subject to redemption within 2 years after the date of the issuance of the certificate, by payment of the taxes and accruing taxes, penalties and costs, together with interest on the taxes at the rate of 10 percent per annum ***, assessed monthly,*** from the date due until paid as provided by law, except as otherwise provided in NRS 360.232 and 360.320, and that redemption may be made in accordance with the provisions of chapter 21 of NRS in regard to real property sold under execution.

(2) A tax lien may be sold against the parcel pursuant to the provisions of NRS 361.731 to 361.733, inclusive.

3. Within 30 days after mailing the original notice of delinquency, the tax receiver shall issue his personal affidavit to the board of county commissioners affirming that due notice has been mailed with respect to each parcel. The affidavit must recite the number of letters mailed, the number of letters returned and the number of letters finally determined to be undeliverable. Until the period of redemption has expired, the tax receiver shall maintain detailed records which contain such information as the Department may prescribe in support of his affidavit.

4. A second copy of the notice of delinquency must be sent by certified mail, not less than 60 days before the expiration of the period of redemption as stated in the notice.

5. The cost of each mailing must be charged to the delinquent taxpayer.

6. A county and its officers and employees are not liable for any damages resulting from failure to provide actual notice pursuant to this section if the county, officer or employee, in determining the names and addresses of persons with an interest in the property, relies upon a preliminary title search from a company authorized to provide title insurance in this State.

~~[Sec. 5.]~~ ***Sec. 7.*** NRS 361.570 is hereby amended to read as follows:

361.570 1. Pursuant to the notice given as provided in NRS 361.5648 and 361.565 and at the time stated in the notice, the tax receiver shall make out a certificate that describes each property on which delinquent taxes , ***penalties, interest and costs*** have not been paid. The certificate authorizes the county treasurer, as trustee for the State and county, to hold each property described in the certificate for the period of 2 years after the first Monday in June of the year the certificate is dated, unless sooner redeemed.

2. The certificate must specify:

(a) The amount of delinquency on each property, including the amount and year of assessment;

(b) The taxes, and the penalties and costs added thereto, on each property, and that, except as otherwise provided in NRS 360.232 and 360.320, interest on the taxes will be added at the rate of 10 percent per annum ***, assessed monthly,*** from the date due until paid; and

(c) The name of the owner or taxpayer of each property, if known.

3. The certificate must state:

(a) ~~[And it is hereby provided:~~

~~(1)]~~ That each property described in the certificate may be redeemed within 2 years after the date of the certificate; ~~[and~~

~~(2)]~~ ***(b)*** That the title to each property not redeemed vests in the county for the benefit of the State and county ~~[.~~

~~(b)]~~ ***; and***

(c) That a tax lien may be sold against the parcel pursuant to the provisions of NRS 361.731 to 361.733, inclusive.

4. Until the expiration of the period of redemption, each property held pursuant to the certificate must be assessed annually to the county treasurer as trustee . ~~[, and before]~~ ***Before*** the owner or his successor redeems the property, he ~~[shall]~~ ***must*** also pay the county treasurer holding the certificate any additional taxes ***, penalties and costs*** assessed and accrued against the property after the date of the certificate, together with interest on the taxes at the rate of 10 percent per annum ***, assessed monthly,*** from the date due until paid, unless otherwise provided in NRS 360.232 and 360.320.

5. A county treasurer shall take a certificate issued to him pursuant to this section. The county treasurer may cause the certificate to be recorded in

the office of the county recorder against each property described in the certificate to provide constructive notice of the amount of delinquent taxes on each property respectively. The certificate reflects the amount of delinquent taxes ***, penalties, interest and costs*** due on the properties described in the certificate on the date on which the certificate was recorded, and the certificate need not be amended subsequently to indicate ***additional taxes, penalties, interest and costs assessed and accrued*** *or* the repayment of any of those delinquent ~~[taxes.]~~ ***amounts.*** The recording of the certificate does not affect the statutory lien for taxes provided in NRS 361.450.

~~[Sec. 6.]~~ ***Sec. 8.*** NRS 361.585 is hereby amended to read as follows:

361.585 1. When the time allowed by law for the redemption of a property described in a certificate has expired ~~[,]~~ and no redemption has been made, the tax receiver who issued the certificate, or his successor in office, shall execute and deliver to the county treasurer a deed of the property in trust for the use and benefit of the State and county and any officers having fees due them.

2. The county treasurer and his successors in office, upon obtaining a deed of any property in trust under the provisions of this chapter, shall hold that property in trust until it is sold or otherwise disposed of pursuant to the provisions of this chapter.

3. Notwithstanding the provisions of NRS 361.595 or 361.603, at any time during the 90-day period specified in NRS 361.603, or before the public notice of sale by a county treasurer, pursuant to NRS 361.595, of any property held in trust by him by virtue of any deed made pursuant to the provisions of this chapter, any person specified in subsection 4 is entitled to have the property reconveyed upon payment to the county treasurer of an amount equal to the taxes accrued, together with any costs, penalties and interest legally chargeable against the property. A reconveyance may not be made after expiration of the 90-day period specified in NRS 361.603 or after commencement of posting or publication of public notice pursuant to NRS 361.595.

4. Property may be reconveyed pursuant to subsection 3 to one or more of the persons specified in the following categories, or to one or more persons within a particular category, as their interests may appear of record:

(a) The owner.

(b) The beneficiary under a ***note and*** deed of trust.

(c) The mortgagee under a mortgage.

(d) ***The creditor under a judgment.***

(e) The person to whom the property was assessed.

~~[(e)]~~ ***(f)*** The person holding a contract to purchase the property before its conveyance to the county treasurer.

~~[(f)]~~ ***(g)*** The successor in interest of any person specified in this subsection.

5. ~~[Any agreement to locate, deliver, recover or assist in the recovery of any property held in trust by a county treasurer by virtue of any deed made pursuant to the provisions of this chapter:~~

~~(a) Must:~~

~~(1) Be in writing.~~

~~(2) Be signed by one or more of the persons identified in subsection 4.~~

~~(3) Include a description of the property.~~

~~(4) Include the value of the property.~~

~~(b) Must not impose a fee that is more than 10 percent of the total value of the property.~~

~~6.]~~ The provisions of this section apply to land held in trust by a county treasurer on or after April 17, 1971.

~~[Sec. 7.]~~ ***Sec. 9.*** NRS 361.590 is hereby amended to read as follows:

361.590 1. If a property described in a certificate is not redeemed within the time allowed by law for its redemption, the tax receiver or his successor in office shall make to the county treasurer as trustee for the State and county a deed of the property, reciting in the deed substantially the matters contained in the certificate of sale or, in the case of a conveyance under NRS 361.604, the order of the board of county commissioners, and that no person has redeemed the property during the time allowed for its redemption.

2. The deed must be recorded in the office of the county recorder within 30 days after the date of expiration of the period of redemption.

3. All such deeds are, except as against actual fraud, conclusive evidence that:

(a) The property was assessed as required by law.

(b) The property was equalized as required by law.

(c) The taxes were levied in accordance with law.

(d) The taxes were not paid.

(e) At a proper time and place a certificate of delinquency was filed as prescribed by law, and by the proper officer.

(f) The property was not redeemed.

(g) The person who executed the deed was the proper officer.

4. Such deeds are, except as against actual fraud, conclusive evidence of the regularity of all other proceedings, from the assessment by the county assessor to the execution of the deed.

5. ~~[The]~~ ***Except as otherwise provided by specific statute, the*** deed conveys to the county treasurer as trustee for the State and county the property described therein, free of all encumbrances, except any easements of record for public utility purposes, any lien for taxes or assessments by any irrigation or other district for irrigation or other district purposes, and any interest and penalties on the property, except when the land is owned by the United States or this State, in which case it is prima facie evidence of the right of possession accrued as of the date of the deed to the purchaser, but

without prejudice to the lien for other taxes or assessments or the claim of any such district for interest or penalties.

6. No tax assessed upon any property, or sale therefor, may be held invalid by any court of this State on account of:

(a) Any irregularity in any assessment;

(b) Any assessment or tax roll not having been made or proceeding had within the time required by law; or

(c) Any other irregularity, informality, omission, mistake or want of any matter of form or substance in any proceedings which the Legislature might have dispensed with in the first place if it had seen fit so to do, and that does not affect the substantial property rights of persons whose property is taxed.

➥ All such proceedings in assessing and levying taxes, and in the sale and conveyance therefor, must be presumed by all the courts of this State to be legal until the contrary is shown affirmatively.

~~[Sec. 8.]~~ ***Sec. 10.*** NRS 361.595 is hereby amended to read as follows:

361.595 1. Any property held in trust by any county treasurer by virtue of any deed made pursuant to the provisions of this chapter may be sold and conveyed in the manner prescribed in this section and in NRS 361.603 or conveyed without sale as provided in NRS 361.604.

2. If the property is to be sold, the board of county commissioners may make an order, to be entered on the record of its proceedings, directing the county treasurer to sell the property particularly described therein, after giving notice of sale, for a total amount not less than the amount of the taxes, costs, penalties and interest legally chargeable against the property as stated in the order.

3. Notice of the sale must be:

(a) Posted in at least three public places in the county, including one at the courthouse and one on the property, not less than 20 days before the day of sale or, in lieu of such a posting, by publication of the notice for 20 days in some newspaper published within the county, if the board of county commissioners so directs.

(b) Mailed by certified mail, return receipt requested, not less than 90 days before the sale, to the owner of the parcel as shown on the tax roll and to any person or governmental entity that appears in the records of the county to have a lien or other interest in the property. If the receipt is returned unsigned, the county treasurer must make a reasonable attempt to locate and notify the owner or other person or governmental entity before the sale.

4. Upon compliance with such an order the county treasurer shall make, execute and deliver to any purchaser, upon payment to him, as trustee, of a consideration not less than that specified in the order, ~~[an absolute]~~ ***a quitclaim*** deed, discharged of any trust of the property mentioned in the order.

5. Before delivering any such deed, the county treasurer shall record the deed at the expense of the purchaser.

6. All such deeds, whether issued before, on or after July 1, 1955, are primary evidence:

(a) Of the regularity of all proceedings relating to the order of the board of county commissioners, the notice of sale and the sale of the property; and

(b) That, if the real property was sold to pay taxes on personal property, the real property belonged to the person liable to pay the tax.

7. No such deed may be executed and delivered by the county treasurer until he files at the expense of the purchaser, with the clerk of the board of county commissioners, proper affidavits of posting and of publication of the notice of sale, as the case may be, together with his return of sale, verified, showing compliance with the order of the board of county commissioners, which constitutes primary evidence of the facts recited therein.

8. If the deed when regularly issued is not recorded in the office of the county recorder, the deed, and all proceedings relating thereto, is void as against any subsequent purchaser in good faith and for a valuable consideration of the same property, or any portion thereof, when his own conveyance is first recorded.

9. The board of county commissioners shall provide its clerk with a record book in which must be indexed the name of each purchaser, together with the date of sale, a description of the property sold, a reference to the book and page of the minutes of the board of county commissioners where the order of sale is recorded, and the file number of the affidavits and return.

~~[Sec. 9.]~~ ***Sec. 11.*** NRS 361.605 is hereby amended to read as follows:

361.605 ~~[1. While such]~~ ***While*** property is held in trust ~~[,]~~ as provided in this chapter, the county treasurer, or his successor in office, ~~[shall]~~ ***may*** collect any rents arising from the property during the time ~~[such]~~ ***the*** property is subject to redemption. After the time of redemption has expired, until ~~[such property can be sold, he]~~ ***the property is sold, the county treasurer, or his successor in office,*** may rent the ~~[same,]~~ ***property,*** with the approval of the board of county commissioners, for a price to be fixed in its minutes. ~~[Such rents shall]~~ ***The rents must*** be paid out by the county treasurer, or his successor in office, ~~[as follows:~~

~~(a) For the payment of costs and taxes for which it was sold, with the percentage allowed for redemption.~~

~~(b) For]~~ ***for*** the payment of any taxes ***, penalties, interest and costs already assessed and*** afterward accruing upon ~~[such property.~~

~~(c) Any balance, into the general fund of his county.~~

~~2. The price for which any property shall be sold shall be appropriated in the same manner as the rents are directed to be paid in this section.~~

~~3. On the first Monday in each month, the county treasurer, or his successor in office, shall file in the office of the county auditor a monthly statement of the amount of property sold and rents collected during the past month. Upon any money being paid to the county treasurer for purchase or rent, the county treasurer shall give a statement of the amount thereof to the person, who shall file the same with the county auditor, and the county~~

~~auditor shall give the person paying such money a receipt for the same, as having been paid to the county treasurer, and expressing the purpose of consideration upon which such payment was made.]~~ ***the property.***

~~[Sec. 10.]~~ ***Sec. 12.*** NRS 361.610 is hereby amended to read as follows:

361.610 1. Out of the sale price or rents of any property of which he is trustee, the county treasurer shall pay the costs due any officer for the enforcement of the tax upon the parcel of property and all taxes owing thereon, and upon the redemption of any property from him as trustee, he shall pay the redemption money over to any officers having fees due them from the parcels of property and pay the tax for which it was sold and pay the redemption percentage according to the proportion those fees respectively bear to the tax.

2. In no case may ~~[any]~~ *:*

(a) Any service rendered by any officer under this chapter become or be allowed as a charge against the county ~~[, nor may the]~~ ***; or***

(b) The sale price or rent or redemption money of any one parcel of property be appropriated to pay any cost or tax upon any other parcel of property than that so sold, rented or redeemed.

3. After paying all the tax and costs upon any one parcel of property, the county treasurer shall pay into the general fund of the county, from the excess proceeds of the sale:

(a) The first $300 of the excess proceeds; and

(b) Ten percent of the next $10,000 of the excess proceeds.

4. The amount remaining after the county treasurer has paid the ~~[amount]~~ *amounts* required by subsection 3 must be deposited in an interest-bearing account maintained for the purpose of holding excess proceeds separate from other money of the county. If no claim is made for the ~~[money within 2 years]~~ ***excess proceeds within 1 year*** after the deed given by the county treasurer is recorded, the county treasurer shall pay the money into the general fund of the county, and it must not thereafter be refunded to the former property owner or his successors in interest. All interest paid on money deposited in the account required by this subsection is the property of the county.

5. If a person who would have been entitled to receive reconveyance of the property pursuant to NRS 361.585 makes a claim in writing for the ~~[balance within 2 years]~~ ***excess proceeds within 1 year*** after the deed is recorded, the county treasurer shall pay ~~[it or his]~~ ***the claim or the*** proper portion ***of the claim*** over to ~~[him if he]~~ ***the person if the county treasurer*** is satisfied that the person is entitled to it.

6. A claim for excess proceeds must be paid out in the following order of priority to:

(a) The persons specified in paragraphs (b), (c), (d) and (g) of subsection 4 of NRS 361.585 in the order of priority of the recorded liens; and

(b) Any person specified in paragraphs (a), (e) and (f) of subsection 4 of NRS 361.585.

7. The county treasurer shall approve or deny a claim within 30 days after the period described in subsection 4 for filing a claim has expired. Any records or other documents concerning a claim shall be deemed the working papers of the county treasurer and are confidential. If more than one person files a claim, and the county treasurer is not able to determine who is entitled to the excess proceeds, the matter must be submitted to mediation.

8. If the mediation is not successful, the county treasurer shall:

(a) Conduct a hearing to determine who is entitled to the excess proceeds; or

(b) File an action for interpleader.

9. A person who is aggrieved by a determination of the county treasurer pursuant to this section may, within 90 days after he receives notice of the determination, commence an action for judicial review of the determination in district court.

10. Any agreement to locate, deliver, recover or assist in the recovery of remaining excess proceeds of a sale which is entered into by a person who would have been entitled to receive reconveyance of the property pursuant to subsection 4 of NRS 361.585 must:

(a) Be in writing.

(b) Be signed by the person who would have been entitled to receive reconveyance.

~~[(c) Include a description of the property on which the excess proceeds were collected.~~

~~(d) Not provide for a fee of more than 10 percent of the total remaining excess proceeds of the sale due that person.]~~

11. In addition to authorizing a person pursuant to an agreement described in subsection 10 to file a claim and collect from the county treasurer any property owed to him, a person described in subsection 4 of NRS 361.585 may authorize a person pursuant to a power of attorney, assignment or any other legal instrument to file a claim and collect from the county treasurer any property owed to him. The county is not liable for any losses resulting from the approval of the claim if the claim is paid by the county treasurer in accordance with the provisions of the legal instrument.

~~[Sec. 11.]~~ ***Sec. 13.*** NRS 361.620 is hereby amended to read as follows:

361.620 The additional penalties ***, interest*** and costs provided for in this chapter ~~[shall]~~ ***must*** be paid into the county general fund for the use of the county.

~~[Sec. 12.]~~ ***Sec. 14.*** NRS 361.635 is hereby amended to read as follows:

361.635 1. ~~[Within 3 days after making the publication required by NRS 361.565, or after the last publication if more than one is made,]~~ ***Not later than the second Monday in June,*** the county treasurer:

(a) ~~[Shall]~~ ***May, and shall when directed by the board of county commissioners,*** prepare and deliver to the district attorney of ~~[his]~~ ***the*** county a list certified ~~[to by him]~~ ***by the county treasurer*** of all accumulated delinquent taxes, exclusive of penalties and assessments of benefits of irrigation districts, of the sum of $3,000 or more.

(b) May prepare and deliver to the district attorney of ~~[his]~~ ***the*** county, a list certified ~~[to by him]~~ ***by the county treasurer*** of all accumulated delinquent taxes, exclusive of penalties and assessments of benefits of irrigation districts, of the sum of $1,000 or more but less than $3,000.

2. If the delinquent taxes specified in the certified list **,** and penalties **,** ***interest*** and costs **,** are not paid to the county treasurer as ex officio tax receiver within 20 days after the date of delivery of the certified list to the district attorney, the district attorney may, and shall when directed by the board of county commissioners, immediately commence an action for the collection of the delinquent taxes, penalties ***, interest*** and costs.

3. The remedy prescribed by this section is in addition to any other remedies provided by law for the collection of delinquent taxes ~~[.]~~ ***, penalties, interest and costs.***

~~[Sec. 13.]~~ ***Sec. 15.*** NRS 338.515 is hereby amended to read as follows:

338.515 1. Except as otherwise provided in NRS 338.525, a public body and its officers or agents awarding a contract for a public work shall pay or cause to be paid to a contractor the progress payments due under the contract within 30 days after the date the public body receives the progress bill or within a shorter period if the provisions of the contract so provide. Not more than 90 percent of the amount of any progress payment may be paid until 50 percent of the work required by the contract has been performed. Thereafter , the public body may pay any of the remaining progress payments without withholding additional retainage if, in the opinion of the public body, satisfactory progress is being made in the work.

2. Except as otherwise provided in NRS 338.525, a public body shall identify in the contract and pay or cause to be paid to a contractor the actual cost of the supplies, materials and equipment that:

(a) Are identified in the contract;

(b) Have been delivered and stored at a location, and in the time and manner, specified in a contract by the contractor or a subcontractor or supplier for use in a public work; and

(c) Are in short supply or were specially made for the public work,

➥ within 30 days after the public body receives a progress bill from the contractor for those supplies, materials or equipment.

3. A public body shall pay or cause to be paid to the contractor at the end of each quarter interest for the quarter on any amount withheld by the public

body pursuant to NRS 338.400 to 338.645, inclusive, at a rate equal to the rate quoted by at least three ~~[financial institutions]~~ ***insured banks, credit unions or savings and loan associations in this State*** as the highest rate paid on a certificate of deposit whose duration is approximately 90 days on the first day of the quarter. If the amount due to a contractor pursuant to this subsection for any quarter is less than $500, the public body may hold the interest until:

(a) The end of a subsequent quarter after which the amount of interest due is $500 or more;

(b) The end of the fourth consecutive quarter for which no interest has been paid to the contractor; or

(c) The amount withheld under the contract is due pursuant to NRS 338.520,

➥ whichever occurs first.

4. If the Labor Commissioner has reason to believe that a workman is owed wages by a contractor or subcontractor, he may require the public body to withhold from any payment due the contractor under this section and pay the Labor Commissioner instead, an amount equal to the amount the Labor Commissioner believes the contractor owes to the workman. This amount must be paid ~~[to the workman]~~ by the Labor Commissioner ***to the workman*** if the matter is resolved in his favor, otherwise it must be returned to the public body for payment to the contractor.

~~[Sec. 14.]~~ ***Sec. 16.*** NRS 361.575 is hereby repealed.

~~[Sec. 15.]~~ ***Sec. 17.*** **1.** This **section and sections 1, 2 and 4 to 16, inclusive, of this** act ~~[becomes]~~ **become** effective on July 1, 2007.

2. Section 3 of this act becomes effective on January 1, 2008.

TEXT OF REPEALED SECTION

361.575 Property held in trust by county treasurer: Annual assessment; payment of taxes on sale or rental.

1. During the time a county treasurer holds a certificate for any property under the provisions of this chapter and until the expiration of the period of redemption specified in the certificate with respect to the property, the property must be assessed annually to the county treasurer, and his successors in office, in the same manner as the taxable property of private persons is assessed, except that the assessment must express that it is made against the county treasurer as a trustee. No proceedings may be taken to enforce the collection of the taxes against the trustee.

2. If the property is sold or rented for sufficient money to pay the taxes and costs legally chargeable against the property, the trustee shall pay the taxes and costs in full.

Assemblywoman McClain moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 585.

Remarks by Assemblywoman McClain.

Motion carried.

Bill ordered transmitted to the Senate.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Anderson moved that the Assembly do not recede from its action on Senate Bill No. 129, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Anderson.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Gerhardt, Anderson, and Carpenter as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 129.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Parnell moved that the Assembly do not recede from its actions on Senate Bill No. 143, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Parnell.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Smith, Kihuen, and Hardy as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 143.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Parnell moved that the Assembly do not recede from its action on Senate Bill No. 184, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Parnell.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Parnell, Segerblom, and Stewart as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 184.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Parnell moved that the Assembly do not recede from its action on Senate Bill No. 239, that a conference be requested, and that Madam Speaker appoint a first Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblywoman Parnell.

Motion carried.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Smith, Denis, and Stewart as a first Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 239.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that the vote whereby Assembly Bill No. 186 was passed be rescinded.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 186 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 41, 51, 53, 54, 55, 64, 67, 80, 90, 91, 101, 112, 120, 137, 143, 145, 147, 176, 194, 195, 216, 226, 227, 228, 239, 249, 253, 321, 322, 326, 331, 334, 342, 352, 375, 383, 391, 406, 421, 433, 446, 463, 468, 478, 483, 489, 493, 507, 512, 516, 517, 518, 529, 531, 533, 535, 540, 549, 554, 567, 570, 576, 580, 596, 608, 612, 616; Assembly Joint Resolutions Nos. 8, 10, 16 of the 73rd Session; Senate Bills Nos. 3, 10, 16, 53, 78, 103, 110, 111, 112, 132, 161, 169, 182, 187, 195, 198, 247, 275, 277, 279, 339, 340, 345, 356, 400, 417, 419, 420, 430, 447, 451, 453, 456, 457, 470, 477, 481, 486, 491, 495, 500, 503, 504, 508, 511, 515, 518, 519, 520, 534, 557; Senate Joint Resolutions Nos. 4, 6, 10, 11, 12, 13, 15, 16 and 17.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Manendo, the privilege of the floor of the Assembly Chamber for this day was extended to Aidan Courtney.

On request of Assemblywoman Parnell, the privilege of the floor of the Assembly Chamber for this day was extended to Leissan Sadykova.

Assemblyman Oceguera moved that the Assembly adjourn until Tuesday, May 29, 2007, at 11 a.m., and do so in the memory of all those who have served our country.

Motion carried.

Assembly adjourned at 1:07 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly