

THE SEVENTY-EIGHTH DAY

CARSON CITY (Monday), April 23, 2007

Senate called to order at 12:27 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Marie Hanson.

I invite you to join with me and everyone in this room, in this building, in this city, in this State, in this Nation, in this world everywhere, for we are one.

Let us now let go of all it took to be here this afternoon. Give this moment to the light and joy and peace that abides in you. Know the light and joy and peace that abides in you comes forward in all your activities today.

May you recognize only the light and joy and peace that abides in your brothers and sisters. Allow it to move through each thought, each word you write, each word you speak today and every day. For you are the light and joy and peace, and so it is.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Human Resources and Education, to which was referred Senate Bill No. 52, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAURICE E. WASHINGTON, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 45, 216, 232, 242, 302, 380, 471, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK E. AMODEI, *Chair*

Mr. President:

Your Committee on Transportation and Homeland Security, to which were referred Senate Bills Nos. 62, 293, 434, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DENNIS NOLAN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 17, 2007

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 26 to Assembly Bill No. 9.

LUCINDA BENJAMIN

Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, April 19, 2007

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 50, 87, 138, 160, 181, 230, 236, 266, 298, 301, 319, 322, 323, 331, 342, 348; Assembly Joint Resolution No. 7.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 64 to Assembly Concurrent Resolution No. 9.

LUCINDA BENJAMIN

Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, April 20, 2007

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 522.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 64, 107, 122, 193, 421, 432, 459, 521, 529, 536.

LUCINDA BENJAMIN

Assistant Chief Clerk of the Assembly

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 22, 2007

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 313, 471.

GARY GHIGGERI

Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that through April 24, 2007, all necessary rules be suspended, and that all bills and joint resolutions returned from reprint be declared emergency measures under the Constitution and be immediately placed on the third reading and final passage next agenda, time permitting.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that through April 24, 2007, that all necessary rules be suspended, reading so far had considered second reading, rules further suspended, and that all bills and joint resolutions reported out of committee with a "do pass" (without amendments) be declared emergency measures under the Constitution and be immediately placed on third reading and final passage on the next agenda, time permitting.

Remarks by Senator Raggio.

Motion carried.

Assembly Joint Resolution No. 7.

Senator Raggio moved that the resolution be referred to the Committee on Natural Resources.

Motion carried.

Senator Hardy has approved the addition of Senator Beers as a primary sponsor of Senate Bill No. 299.

Senator Amodei moved that Senate Bill No. 48 be taken from the Secretary's desk and placed on the General File on the next agenda.

Remarks by Senator Amodei.

Motion carried.

Senator Lee moved that Senate Bill No. 60 be taken from the Secretary's desk and placed on the Second Reading File on the third agenda.

Remarks by Senator Lee.

Motion carried.

Senator McGinness moved that Senate Bill No. 94 be taken from the Secretary's desk and placed on the General File on the third agenda.

Remarks by McGinness.

Motion carried.

Senator Washington moved that Senate Bill No. 432 be taken from the Second Reading File and placed on the Second Reading File on the third agenda.

Remarks by Senator Washington.

Motion carried.

Senator Amodei moved that Senate Bill No. 274 be taken from the Secretary's desk and placed on the General File on this agenda.

Remarks by Senator Amodei.

Motion carried.

Senator Nolan moved that Senate Bill No. 61 be taken from the Secretary's desk and placed on the General File on the third agenda.

Remarks by Nolan.

Motion carried.

Senator Nolan moved that Senate Bill No. 106 be taken from the Secretary's desk and placed on the General File on the third agenda.

Remarks by Nolan.

Motion carried.

Senator Nolan moved that Senate Bill No. 42 be taken from the Secretary's desk and placed on the General File on the third agenda.

Remarks by Nolan.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 50.

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

Motion carried.

Assembly Bill No. 64.

Senator Nolan moved that the bill be referred to the Committee on Transportation and Homeland Security.

Motion carried.

Assembly Bill No. 87.

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

Motion carried.

Assembly Bill No. 107.

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

Motion carried.

Assembly Bill No. 122.

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

Motion carried.

Assembly Bill No. 138.

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

Motion carried.

Assembly Bill No. 160.

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

Motion carried.

Assembly Bill No. 181.

Senator Nolan moved that the bill be referred to the Committee on Transportation and Homeland Security.

Motion carried.

Assembly Bill No. 193.

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

Motion carried.

Assembly Bill No. 230.

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

Motion carried.

Assembly Bill No. 236.

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

Motion carried.

Assembly Bill No. 266.

Senator Nolan moved that the bill be referred to the Committee on Transportation and Homeland Security.

Motion carried.

Assembly Bill No. 298.

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

Motion carried.

Assembly Bill No. 301.

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

Motion carried.

Assembly Bill No. 319.

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

Motion carried.

Assembly Bill No. 322.

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

Motion carried.

Assembly Bill No. 323.

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

Motion carried.

Assembly Bill No. 331.

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

Motion carried.

Assembly Bill No. 342.

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

Motion carried.

Assembly Bill No. 348.

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

Motion carried.

Assembly Bill No. 421.

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

Motion carried.

Assembly Bill No. 432.

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

Motion carried.

Assembly Bill No. 459.

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

Motion carried.

Assembly Bill No. 521.

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

Motion carried.

Assembly Bill No. 522.

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

Motion carried.

Assembly Bill No. 529.

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

Motion carried.

Assembly Bill No. 536.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 92.

Bill read second time.

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

Amendment No. 244.

"SUMMARY—Revises ~~the applicability of~~ certain provisions pertaining to the regulation of firearms by local governments. (BDR ~~[S] 20-45~~)"

"AN ACT relating to firearms; revising ~~the applicability of~~ certain provisions pertaining to the regulation of firearms by local governments; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Assembly Bill No. 147 of the 1989 Legislative Session (Chapter 308, Statutes of Nevada 1989, p. 653) reserved for the Legislature the rights and powers necessary to regulate the transfer, sale, purchase, possession, ownership, transportation, registration and licensing of firearms and ammunition in this State. However, section 5 of Assembly Bill No. 147 provided that the preemptive effect of the bill applied only to ordinances or

regulations adopted by local governments on or after June 13, 1989. This bill ~~amends that section to include and preempt~~ requires the amendment of ordinances or regulations adopted by local governments before June 13, 1989 ~~that~~ that require registration of a firearm capable of being concealed to impose: (1) a period of at least 60 days of residency in the jurisdiction before registration of such a firearm is required; and (2) a period of at least 72 hours for the registration of a pistol by a resident of the jurisdiction upon transfer of title to the pistol to the resident by purchase, gift or any other transfer.

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

Section 1. NRS 244.364 is hereby amended to read as follows:

244.364 1. Except as otherwise provided by specific statute, the Legislature reserves for itself such rights and powers as are necessary to regulate the transfer, sale, purchase, possession, ownership, transportation, registration and licensing of firearms and ammunition in Nevada, and no county may infringe upon those rights and powers.

2. A board of county commissioners may proscribe by ordinance or regulation the unsafe discharge of firearms.

3. If a board of county commissioners in a county whose population is 400,000 or more has required by ordinance or regulation adopted before June 13, 1989, the registration of a firearm capable of being concealed, the board of county commissioners shall amend such an ordinance or regulation to require:

(a) A period of at least 60 days of residency in the county before registration of such a firearm is required.

(b) A period of at least 72 hours for the registration of a pistol by a resident of the county upon transfer of title to the pistol to the resident by purchase, gift or any other transfer.

4. As used in this section ~~["firearm"]~~ :

(a) "Firearm" means any weapon from which a projectile is discharged by means of an explosive, spring, gas, air or other force.

(b) "Firearm capable of being concealed" includes all firearms having a barrel less than 12 inches in length.

(c) "Pistol" means a firearm capable of being concealed that is intended to be aimed and fired with one hand.

Sec. 2. NRS 268.418 is hereby amended to read as follows:

268.418 1. Except as otherwise provided by specific statute, the Legislature reserves for itself such rights and powers as are necessary to regulate the transfer, sale, purchase, possession, ownership, transportation, registration and licensing of firearms and ammunition in Nevada, and no city may infringe upon those rights and powers.

2. The governing body of a city may proscribe by ordinance or regulation the unsafe discharge of firearms.

3. If the governing body of a city in a county whose population is 400,000 or more has required by ordinance or regulation adopted before June 13, 1989, the registration of a firearm capable of being concealed, the governing body shall amend such an ordinance or regulation to require:

(a) A period of at least 60 days of residency in the city before registration of such a firearm is required.

(b) A period of at least 72 hours for the registration of a pistol by a resident of the city upon transfer of title to the pistol to the resident by purchase, gift or any other transfer.

4. As used in this section ~~["firearm"]~~ :

(a) "Firearm" means any weapon from which a projectile is discharged by means of an explosive, spring, gas, air or other force.

(b) "Firearm capable of being concealed" includes all firearms having a barrel less than 12 inches in length.

(c) "Pistol" means a firearm capable of being concealed that is intended to be aimed and fired with one hand.

Sec. 3. NRS 269.222 is hereby amended to read as follows:

269.222 1. Except as otherwise provided by specific statute, the Legislature reserves for itself such rights and powers as are necessary to regulate the transfer, sale, purchase, possession, ownership, transportation, registration and licensing of firearms and ammunition in Nevada, and no town may infringe upon those rights and powers.

2. A town board may proscribe by ordinance or regulation the unsafe discharge of firearms.

3. If a town board in a county whose population is 400,000 or more has required by ordinance or regulation adopted before June 13, 1989, the registration of a firearm capable of being concealed, the town board shall amend such an ordinance or regulation to require:

(a) A period of at least 60 days of residency in the town before registration of such a firearm is required.

(b) A period of at least 72 hours for the registration of a pistol by a resident of the town upon transfer of title to the pistol to the resident by purchase, gift or any other transfer.

4. As used in this section ~~["firearm"]~~ :

(a) "Firearm" means any weapon from which a projectile is discharged by means of an explosive, spring, gas, air or other force.

(b) "Firearm capable of being concealed" includes all firearms having a barrel less than 12 inches in length.

(c) "Pistol" means a firearm capable of being concealed that is intended to be aimed and fired with one hand.

~~[Section 4.]~~ Sec. 4. Section 5 of chapter 308, Statutes of Nevada 1989, at page 653, is hereby amended to read as follows:

Sec. 5. ~~[The]~~

1. Except as otherwise provided in subsection 2, the provisions of this act apply ~~only~~ to ordinances or regulations adopted ~~before~~ on or after ~~the effective date of this act~~ June 13, 1989.

2. The provisions of this act, as amended on October 1, 2007, apply to ordinances or regulations adopted before, on or after June 13, 1989.

Sec. 5. A board of county commissioners, governing body of a city and town board in a county whose population is 400,000 or more shall amend any ordinance or regulation adopted by that body before June 13, 1989, that does not conform with the provisions of NRS 244.364, as amended by section 1 of this act, NRS 268.418, as amended by section 2 of this act or NRS 269.222, as amended by section 3 of this act, as applicable, by January 1, 2008. Any ordinance or regulation that does not comply with the applicable provision by January 1, 2008, shall be deemed to conform with that provision by operation of law.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 125.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 592.

"SUMMARY—~~[Makes an appropriation]~~ *Authorizes the Lander County School District to transfer certain property to the Austin Historical Society.* ~~[for an appraisal of the old Austin Elementary School.]~~ (BDR S-987)"

"AN ACT ~~[making an appropriation]~~ *relating to property; authorizing the Lander County School District to transfer certain property to the Austin Historical Society;* ~~[for an appraisal of the old Austin Elementary School.]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Lander County School District owns the building commonly referred to as the Old Austin Elementary School located in Austin, Nevada. The Austin Historical Society is a domestic nonprofit corporation with offices located in Austin.

This bill authorizes the Lander County School District to transfer the Old Austin Elementary School to the Austin Historical Society.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Delete existing sections 1 through 3 of this bill and replace with the following new sections 1 and 2:

Section 1. 1. The Lander County School District may transfer to the Austin Historical Society, without consideration, all the interest of the Lander County School District in the building and real property commonly

referred to as the Old Austin Elementary School located in Austin, Nevada.

2. If the building and real property are transferred to the Austin Historical Society pursuant to this act:

(a) The Austin Historical Society:

(1) Shall, to the extent practicable, use the building and real property in a manner that maintains the historic value of the building and real property, unless the Board of Trustees of the Lander County School District authorizes another use by the Austin Historical Society.

(2) May transfer the building and real property to another person with the consent of the Board of Trustees of the Lander County School District. Such a transfer may be made without a restriction on the use of the building and real property by the successor in title, unless the Board of Trustees of the Lander County School District requires such a restriction.

(b) The deed from the Lander County School District to the Austin Historical Society must include a restriction stating that the transfer is subject to the provisions of this act and any amendments to this act whenever enacted.

3. The provisions of chapter 393 of NRS do not apply to a transfer of the building and real property to the Austin Historical Society pursuant to this act.

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

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 157.

Bill read second time.

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

Amendment No. 304.

"SUMMARY—Revises provisions governing the appointment of a public guardian and the management of the office and cases of a public guardian. (BDR 20-272)"

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

Legislative Counsel's Digest:

Section 9 of this bill changes existing law, which currently allows a board of county commissioners to establish the office of public guardian, by requiring the board of county commissioners of each county to establish the office of public guardian. (NRS 253.150) ~~[Also under section 9.]~~ Section 9 provides a board of county commissioners ~~[shall]~~ with four alternative methods to meet this requirement: (1) appoint a public guardian for a term of 4 years ~~[]~~ ; (2) designate a county officer to serve as ex officio public guardian ~~[]~~ ; (3) except in a county whose population is 100,000 or more (currently Clark and Washoe Counties), contract with a private professional guardian to act as public guardian; or (4) contract with the board of county commissioners of a neighboring county which is in the same judicial district to use the neighboring county's public guardian as the public guardian of the county. After the board of county commissioners has designated or appointed a public guardian, section 3 of this bill allows the board to establish regulations for the form of reports and budgets made by the public guardian and to review reports and budgets submitted to the board by the public guardian. Section 10 of this bill requires the public guardian of a county to appoint one or more deputies to perform the duties of his office in his absence. (NRS 253.175)

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

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

Existing law allows a public guardian to retain an attorney to assist him when necessary for the proper administration of a guardianship ~~[]~~ (NRS 253.215) Section 12 of this bill allows the public guardian to retain an

~~attorney to assist him if the attorney practices in the county and is qualified by experience and willing to accept the employment. However, section 12 eliminates the requirement that the public guardian rotate~~ but requires that such employment be rotated among the attorneys practicing in the county who are qualified and willing to accept such employment. (NRS 253.215) In addition ~~[.]~~ to such rotation of employment, section 12 of this bill allows the public guardian to retain one attorney to assist him or to obtain the assistance of the district attorney's office if the board of county commissioners approves such assistance.

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

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

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

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

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

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

3. *The public guardian must reimburse the county for any advance provided pursuant to subsection 1 from the assets of the estate of the ward as soon as, and to the extent that, the assets become available. If the board of county commissioners has established a revolving fund pursuant to subsection 2, the board shall deposit in the revolving fund the money obtained from a reimbursement provided pursuant to this subsection. If the*

board has not established a revolving fund pursuant to subsection 2, the board shall deposit in the general fund of the county the money obtained from a reimbursement provided pursuant to this subsection.

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

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

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

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

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

253.0415 1. The public administrator shall:

(a) Investigate:

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

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

~~{(3)}~~ (2) Whether there is any qualified person who is willing and able to serve as ~~{guardian for a ward or}~~ administrator of the estate of an intestate decedent to determine whether he is eligible to serve in that capacity.

(b) ~~{Petition the court for appointment as guardian of the person and estate of any ward if, after investigation, the public administrator finds that he is eligible to serve. Except as otherwise provided in subsection 2, this petition for appointment as guardian must be made by the public administrator regardless of the amount of assets in the guardianship estate if no other qualified person having a prior right is willing and able to serve.~~

~~(c)}~~ Except as otherwise provided in NRS 253.0403 and 253.0425, petition the court for letters of administration of the estate of a person dying intestate if, after investigation, the public administrator finds that there is no other qualified person having a prior right who is willing and able to serve.

~~{(d)}~~ (c) Upon court order, act as ~~{~~:

~~(1) Guardian of the person and estate of an adult ward; or~~

~~(2) Administrator}~~ administrator of the estate of a person dying intestate,

~~{ }~~ regardless of the amount of assets in the estate of the ~~{ward or}~~ decedent if no other qualified person is willing and able to serve.

2. The public administrator is not eligible to serve as a guardian of the person and estate of a ward ~~{if the board of county commissioners of his county has established the office of public guardian pursuant to NRS 253.150,}~~ unless the board has designated the public administrator as ex officio public guardian.

Sec. 5. NRS 253.042 is hereby amended to read as follows:

253.042 In connection with an investigation conducted pursuant to subsection 1 of NRS 253.0415, a public administrator may:

1. Require ~~{any proposed ward or}~~ any spouse, parent, child or other kindred of the ~~{proposed ward}~~ *decedent* to give any information and to execute any written requests or authorizations necessary to provide the public administrator with access to records, otherwise confidential, needed to evaluate the public administrator's eligibility to serve.

2. Obtain information from the public records in any office of the State or any of its agencies or subdivisions upon request and without payment of any fee.

Sec. 6. NRS 253.044 is hereby amended to read as follows:

253.044 In a county whose population is less than 100,000, the board of county commissioners may, after reviewing each case, direct the public administrator or any other suitable person to:

1. Investigate ~~{~~:

~~(a) The financial status of any proposed ward for whom a request to serve as guardian has been received to determine whether there is a need for a guardian to be appointed and whether the public administrator or other suitable person designated by the board is able and eligible to serve in that capacity.~~

~~(b) Whether~~ whether there is any qualified person who is willing and able to serve as ~~{guardian for a ward or}~~ administrator of the estate of an intestate decedent, and to determine whether there is a need for ~~{a guardian or}~~ an administrator and whether the public administrator or other suitable person designated by the board is eligible to serve in that capacity.

2. ~~{Petition the court for appointment as guardian of the person or as guardian of the person and estate of any ward if, after investigation, the public administrator or other suitable person designated by the board finds that there is a need for such an appointment and that he is able and eligible to serve. If no other qualified person having a prior right is willing and able to serve, the public administrator or other suitable person designated by the board shall petition for appointment as guardian regardless of the amount of assets in the estate of the proposed ward.~~

~~3.}~~ Petition the court for letters of administration of the estate of a person dying intestate if, after investigation, the public administrator or other suitable person designated by the board finds that there is no other qualified person having a prior right who is willing and able to serve.

~~{4.}~~ 3. File an affidavit pursuant to NRS 253.0403 to administer the estate if, after investigation, the public administrator or other suitable person designated by the board finds that the gross value of the decedent's property situated in this State does not exceed \$20,000.

~~{5.}~~ 4. Act, upon order of a court, as ~~{~~:

~~(a) Guardian of the person and estate of an adult ward; or~~

~~(b) Administrator}~~ administrator of the estate of a person dying intestate,

~~{or}~~ regardless of the amount of assets in the estate of the ward or decedent if no other qualified person is willing and able to serve.

Sec. 7. NRS 253.0445 is hereby amended to read as follows:

253.0445 In an investigation conducted pursuant to subsection 1 of NRS 253.044, a public administrator or other suitable person designated by the board of county commissioners may:

1. Require any ~~{proposed ward or any}~~ spouse, parent, child or other kindred of the ~~{proposed ward}~~ decedent to give any information and to execute any written requests or authorizations necessary to provide the public administrator or other suitable person designated by the board with access to records, otherwise confidential, needed to evaluate the public administrator's or other suitable person's eligibility to serve.

2. Obtain information from the public records in any office of the State or any of its agencies or subdivisions upon request and without payment of any fee.

Sec. 8. NRS 253.091 is hereby amended to read as follows:

253.091 1. The board of county commissioners shall:

(a) Establish regulations for the form of any reports made by the public administrator.

(b) Review reports submitted to the board by the public administrator.

(c) Investigate any complaint received by the board against the public administrator.

2. The board of county commissioners may at any time investigate any ~~{guardianship or}~~ estate for which the public administrator is serving as ~~{guardian or}~~ administrator.

Sec. 9. NRS 253.150 is hereby amended to read as follows:

253.150 1. The board of county commissioners of ~~{any county may}~~ *each county shall* establish the office of public guardian.

2. The board of county commissioners ~~{may}~~ *shall*:

(a) Appoint a public guardian, who serves at the pleasure of the board, for a term of 4 years from the day of appointment; ~~{or}~~

(b) Designate an elected or appointed county officer as ex officio public guardian ~~{or}~~;

(c) ~~{Contract}~~ *Except in a county whose population is 100,000 or more, contract with a private professional guardian to act as public guardian; or*

(d) *Contract with the board of county commissioners of a neighboring county in the same judicial district to designate as public guardian the public guardian of the neighboring county.*

3. The compensation of a public guardian appointed or designated pursuant to subsection 2 must be fixed by the board of county commissioners and paid out of the county general fund.

4. *As used in this section, "private professional guardian" means a person who receives compensation for services as a guardian to three or more wards who are not related to the person by blood or marriage. The term does not include:*

(a) A governmental agency.

(b) A banking corporation, as defined in NRS 657.016, or an organization permitted to act as fiduciary pursuant to NRS 662.245 if it is appointed as guardian of an estate only.

(c) A trust company, as defined in NRS 669.070.

(d) A court-appointed attorney licensed to practice law in this State.

Sec. 10. NRS 253.175 is hereby amended to read as follows:

253.175 1. A public guardian ~~may~~ shall appoint one or more deputies to perform the duties of his office ~~if~~ in his absence. A deputy so appointed may transact all official business relating to the office of the public guardian to the same extent as the public guardian, except that the deputy is not authorized to employ or terminate the employment of subordinates in the office. Before entering upon the discharge of his duties, each deputy must take and subscribe to the constitutional oath of office. The appointment of a deputy must not be construed to confer upon that deputy policymaking authority for the office of the county public guardian or the county by which the deputy is employed.

2. Each appointment must be in writing and recorded, with the oath of office of that deputy, in the office of the county recorder. Any revocation or resignation of an appointment must be recorded in the office of the county recorder.

3. The public guardian is responsible on his official bond for any official malfeasance or nonfeasance of his deputies and may require a bond for the faithful performance of the official duties of his deputies.

4. The compensation of a deputy public guardian must be fixed by the board of county commissioners and paid out of the county general fund.

~~[Sec. 10.]~~ Sec. 11. NRS 253.200 is hereby amended to read as follows:

253.200 1. A resident of Nevada is eligible to have the public guardian of the county in which he resides appointed as his temporary individual guardian pursuant to NRS 159.0523 or 159.0525.

2. A resident of Nevada is eligible to have the public guardian of a county appointed as his permanent or general individual guardian if he:

(a) Has no relative or friend able and willing to serve as his guardian; or

(b) ~~[Lacks sufficient assets to provide the requisite compensation to a private guardian.]~~ Is a resident of the county pursuant to NRS 428.020, that county.

~~[2.]~~ 3. A person ~~[so]~~ qualified ~~[if]~~ pursuant to subsection 1 or 2, or anyone on his behalf, may petition the district court of the county in which he resides to make the appointment.

~~[3.]~~ ~~A person may not file a petition pursuant to subsection 2 unless the public guardian of the county in which the petition is filed approves and signs the petition before the petition is filed.]~~

4. Before a petition for the appointment of the public guardian as a guardian may be filed pursuant to subsection 3, a copy of the petition and

copies of all accompanying documents to be filed must be delivered to the public guardian or a deputy public guardian.

5. Any petition for the appointment of the public guardian as a guardian filed pursuant to subsection 3 must include a statement signed by the public guardian or deputy public guardian and in substantially the following form:

The undersigned is the Public Guardian or a Deputy Public Guardian of County. The undersigned certifies that he has received a copy of this petition and all accompanying documents to be filed with the court.

~~4.4~~ 6. A petition for the appointment of the public guardian as permanent or general guardian must be filed separately from a petition for the appointment of a temporary guardian.

~~5.5~~ 7. If a person other than the public guardian served as temporary guardian prior to the appointment of the public guardian as permanent or general guardian, the temporary guardian must file an accounting and report with the court in which the petition for the appointment of a public guardian was filed within 30 days of the appointment of the public guardian as permanent or general guardian.

8. For the purposes of this section:

(a) Except as otherwise provided in paragraph (b), the county of residence of a person is the county to which the person moved with the intent to reside for an indefinite period.

(b) The county of residence of a person placed in institutional care is the county that was the county of residence of the person before the person was placed in institutional care by a guardian or agency or under power of attorney.

~~[Sec. 11.]~~ Sec. 12. NRS 253.215 is hereby amended to read as follows:

253.215 1. When necessary for the proper administration of a guardianship, a public guardian may ~~retain~~ :

~~(a) Retain an attorney to assist him [rotating this employment in successive guardianships among the attorneys practicing] if the attorney practices law in the county [who are] and is qualified by experience and willing to serve [.]~~ ~~or rotate this employment among attorneys who practice law in the county and who are qualified by experience and willing to serve; or~~

~~(b) Upon approval of the board of county commissioners, obtain assistance from the office of the district attorney of the county.~~

2. ~~[The]~~ Any attorney's fee ~~if any~~ must be paid from the assets of the ward.

~~[Sec. 12.]~~ Sec. 13. NRS 253.220 is hereby amended to read as follows:

253.220 A public guardian ~~shall~~ may investigate the financial status , assets and personal and family history of any person for whom ~~the appointment of~~ the public guardian ~~[as his guardian is requested.]~~ has been

appointed as guardian, without hiring or being licensed as a private investigator pursuant to chapter 648 of NRS. In connection with the investigation, the public guardian may require ~~that person~~ any proposed ward or any spouse, parent, child or other kindred of the proposed ward to give any information and to execute and deliver any written requests or authorizations necessary to provide the public guardian with access to records, otherwise confidential, ~~needed to evaluate eligibility,~~ which are needed by the public guardian. The public guardian may obtain information from any public record office of the State or any of its agencies or subdivisions upon request and without payment of any fees.

~~[Sec. 13.]~~ Sec. 14. NRS 253.240 is hereby amended to read as follows:

253.240 The reasonable value of a public guardian's services rendered without cost to a ward shall be allowed as a claim against the estate of the ward upon the ~~[death of the ward.]~~ approval of the court. Money received in payment of a claim against the estate of the ward shall be deposited by the public guardian to the credit of the county general fund ~~+~~ or any other county fund, as determined by the board of county commissioners.

~~[Sec. 14.]~~ Sec. 15. NRS 648.060 is hereby amended to read as follows:

648.060 1. ~~[No]~~ Except as otherwise provided in NRS 253.220, no person may:

(a) Engage in the business of private investigator, private patrolman, process server, reposessor, dog handler, security consultant, or polygraphic examiner or intern; or

(b) Advertise his business as such, irrespective of the name or title actually used,

↪ unless he is licensed pursuant to this chapter.

2. No person may be employed by a licensee unless the person holds a work card issued by the sheriff of the county in which the work is to be performed. The provisions of this subsection do not apply to a person licensed pursuant to this chapter.

3. A person licensed pursuant to this chapter may employ only another licensee, or a nonlicensed person who:

(a) Is at least 18 years of age.

(b) Is a citizen of the United States or lawfully entitled to remain and work in the United States.

(c) Is of good moral character and temperate habits.

(d) Has not been convicted of a felony or a crime involving moral turpitude or the illegal use or possession of a dangerous weapon.

~~[Sec. 15.]~~ Sec. 16. NRS 648.063 is hereby amended to read as follows:

648.063 An unlicensed person who performs a single act for which a license is required has engaged in the business for which the license is

required and, unless exempt from licensing ~~[]~~ *or performing an investigation pursuant to NRS 253.220*, has violated NRS 648.060.

~~[Sec. 16.]~~ *Sec. 17.* NRS 648.203 is hereby amended to read as follows:

648.203 1. Except as otherwise provided in subsection 2 ~~[]~~ *or NRS 253.220*, it is unlawful for a person to:

(a) Allow an employee, including an independent contractor, to perform any work regulated pursuant to the provisions of this chapter unless the employee holds a work card authorizing his work which is issued by the sheriff of the county in which the work is performed. The provisions of this paragraph do not apply to a person licensed pursuant to this chapter.

(b) Work as a security guard unless he holds a work card authorizing his work as a security guard issued in accordance with applicable ordinances by the sheriff of the county in which the work is performed.

2. The provisions of subsection 1 do not apply in any county whose population is less than 100,000, but this subsection does not prohibit a board of county commissioners from adopting similar restrictions by ordinance.

3. The sheriff of any county in which such restrictions apply shall require any person applying for such a work card to submit a complete set of his fingerprints to the sheriff who may forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to determine the applicant's criminal history.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 173.

Bill read second time.

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

Amendment No. 212.

"SUMMARY—Revises provisions relating to the expenditure of money received from the Federal Government to prevent or respond to acts of terrorism. (BDR 31-224)"

"AN ACT relating to public financial administration; revising provisions relating to the expenditure of money received from the Federal Government to prevent or respond to acts of terrorism; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Nevada Commission on Homeland Security is entrusted with various duties designed to protect residents of this State and visitors to this State from acts of terrorism and related emergencies. (NRS 239C.030, 239C.120, 239C.160) Sections 1 and 2 of this bill require that agencies and other entities within the Executive Branch of State

Government other than the Nevada National Guard apply to and obtain the written approval of the Nevada Commission on Homeland Security before making expenditures of money received from the Federal Government for projects or programs to prevent or respond to acts of terrorism.

Under existing law, if the State or a city or county is approved to receive money from any public or private source to pay for projects or programs to prevent or respond to acts of terrorism, the State or the city or county, as applicable, is required to submit to the Nevada Commission on Homeland Security a written report detailing the amount of money that will be received and the purposes for which it will be used. (NRS 239C.070, 239C.300) Section 3 of this bill requires a local government that receives money directly from the Federal Government to pay for projects or programs to prevent or respond to acts of terrorism, to submit to the Commission a written report ~~[detailing]~~ setting forth the amount of money that the local government received directly from the Federal Government and a general description of the purposes for which it was spent. (NRS 239C.300) In addition to cities and counties, this reporting requirement applies to local governments such as towns, school districts and general improvement districts. (NRS 239C.070, 239C.300, 354.474)

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

Section 1. Chapter 353 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If a department, institution or agency of the Executive Department of the State Government other than the Nevada National Guard receives from the Federal Government money in the form of a grant, loan ~~or~~ or appropriation, or in any other form, the department, institution or agency must, before it expends such money to pay for a project or program relating to the prevention of, detection of, mitigation of, preparedness for, response to or recovery from acts of terrorism, apply to and receive written approval for the expenditure from the Nevada Commission on Homeland Security pursuant to subsection 7 of NRS 239C.160.*

2. *As used in this section, "act of terrorism" has the meaning ascribed to it in NRS 239C.030.*

Sec. 2. NRS 239C.160 is hereby amended to read as follows:

239C.160 The Commission shall, within the limits of available money:

1. Make recommendations to the Governor, the Legislature, agencies of this State, political subdivisions, businesses located within this State and private persons who reside in this State with respect to actions and measures that may be taken to protect residents of this State and visitors to this State from potential acts of terrorism and related emergencies.

2. Propose goals and programs that may be set and carried out, respectively, to counteract or prevent potential acts of terrorism and related emergencies before such acts of terrorism and related emergencies can harm or otherwise threaten residents of this State and visitors to this State.

3. With respect to buildings, facilities, geographic features and infrastructure that must be protected from acts of terrorism and related emergencies to ensure the safety of the residents of this State and visitors to this State, including, without limitation, airports other than international airports, the Capitol Complex, dams, gaming establishments, governmental buildings, highways, hotels, information technology infrastructure, lakes, places of worship, power lines, public buildings, public utilities, reservoirs, rivers and their tributaries, and water facilities:

(a) Identify and categorize such buildings, facilities, geographic features and infrastructure according to their susceptibility to and need for protection from acts of terrorism and related emergencies; and

(b) Study and assess the security of such buildings, facilities, geographic features and infrastructure from acts of terrorism and related emergencies.

4. Examine the use, deployment and coordination of response agencies within this State to ensure that those agencies are adequately prepared to protect residents of this State and visitors to this State from acts of terrorism and related emergencies.

5. Assess, examine and review the use of information systems and systems of communication used by response agencies within this State to determine the degree to which such systems are compatible and interoperable. After conducting the assessment, examination and review, the Commission shall:

(a) Establish a state plan setting forth criteria and standards for the compatibility and interoperability of those systems when used by response agencies within this State; and

(b) Advise and make recommendations to the Governor relative to the compatibility and interoperability of those systems when used by response agencies within this State, with particular emphasis upon the compatibility and interoperability of public safety radio systems.

6. Assess, examine and review the operation and efficacy of telephone systems and related systems used to provide emergency 911 service.

7. *Review and, within 90 business days after the date of receipt, approve or deny in writing an application received pursuant to section 1 of this act. The Commission shall, in consultation with the Division, adopt regulations establishing criteria for determining whether to approve or deny an application received pursuant to section 1 of this act. The provisions of this subsection must not be applied in any manner which would result in a loss of money for a project or program relating to the prevention of, detection of, mitigation of, preparedness for, response to or recovery from acts of terrorism.*

8. To the extent practicable, cooperate and coordinate with the Division to avoid duplication of effort in developing policies and programs for preventing and responding to acts of terrorism and related emergencies.

~~{8.}~~ 9. Perform any other acts related to their duties set forth in subsections 1 to ~~{7.}~~ 8, inclusive, that the Commission determines are necessary to protect or enhance:

- (a) The safety and security of the State of Nevada;
- (b) The safety of residents of the State of Nevada; and
- (c) The safety of visitors to the State of Nevada.

Sec. 3. NRS 239C.300 is hereby amended to read as follows:

239C.300 1. If the State or a political subdivision submits an application to and is approved to receive money from the Federal Government, this State, any other state, a local government, any agency or instrumentality of those governmental entities, or any private entity, to pay for a project or program relating to the prevention of, detection of, mitigation of, preparedness for, response to ~~{and}~~ or recovery from acts of terrorism, the State or political subdivision shall, not later than 60 days after receiving such approval, submit to the Commission a written report that includes, without limitation:

- (a) The total amount of money that the State or political subdivision has been approved to receive for the project or program;
- (b) A description of the project or program, unless the State or political subdivision previously submitted a written report pursuant to this section relating to the same project or program; and
- (c) The items to be paid for with the money that the State or political subdivision has been approved to receive for the project or program.

2. *In addition to the reporting requirements of subsection 1, if a local government receives directly from the Federal Government money in the form of a grant, loan ~~or~~ or appropriation or in any other form to pay for a project or program relating to the prevention of, detection of, mitigation of, preparedness for, response to or recovery from acts of terrorism, the local government shall submit to the Commission a written report that includes, without limitation:*

(a) The total amount of money that the local government received directly from the Federal Government for the project or program; and

(b) ~~{An itemized statement of the manner in}~~ A general description of the project or program for which the money received directly from the Federal Government was spent; and

~~{Any other information that the Commission requires by regulation}~~ expended.

➡ The Commission shall adopt such regulations as are necessary to carry out the provisions of this subsection. The regulations so adopted must include, without limitation, the time within which and the frequency with which a local government must submit the reports described in this subsection. The regulations so adopted must not require a local government to submit the reports described in this subsection more frequently than once each year.

3. A project or program for which the State or a ~~political subdivision~~ *local government* is required to report the receipt of money pursuant to subsection 1 or 2 includes, without limitation, a project or program related to:

- (a) Homeland security;
- (b) Emergency management;
- (c) Health or hospitals;
- (d) Emergency medical services; and
- (e) Chemical, biological, radiological, nuclear, explosive, agricultural or environmental acts of terrorism.

~~{3.}~~ 4. Any grant related to terrorism that is administered by the Division and is provided to a political subdivision must be approved by the local emergency planning committee.

5. *As used in this section, "local government" has the meaning ascribed to it in NRS 354.474. The term includes a political subdivision.*

Sec. 4. This act becomes effective on July 1, 2007.

Senator Heck moved the adoption of the amendment.

Remarks by Senator Heck.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 235.

Bill read second time.

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

Amendment No. 589.

"SUMMARY—~~[Revises certain provisions pertaining to voting by units' owners in a homeowners' association.]~~ *Makes various changes concerning homeowners' associations.* (BDR 10-681)"

"AN ACT relating to common-interest communities; *authorizing the governance of a homeowners' association by an executive board which is elected by units' owners from election districts;* ~~[providing that]~~ *authorizing the declaration of a homeowners' association [may be amended by vote or agreement of a majority of all votes cast by units' owners; prohibiting the vote of a unit's owner from being cast by another person under certain circumstances;]* *to require a supermajority vote of the members of the executive board for an action of the executive board; revising provisions concerning voting rights exercised by delegates or representatives; and providing other matters properly relating thereto.*"

Legislative Counsel's Digest:

Section 2 of this bill authorizes a declaration of certain homeowners' associations to provide for the governance of the association by an executive board, the members of which are elected by the units' owners of election districts. Section 2 also provides requirements for such governance, including, without limitation, requirements for the establishment of such election districts and the procedures for conducting such elections.

Section 3 of this bill specifically allows the declaration of a homeowners' association to provide that a supermajority vote of the members of the executive board is required for all actions or any specified action of the executive board.

Under existing law, the declaration of a homeowners' association may be amended by vote or agreement of units' owners of units to which at least a majority of the votes in the association are allocated, or any larger majority the declaration specifies. (NRS 116.2117) Under certain circumstances, an association or any unit's owner may file a petition with the district court asking for an order waiving the supermajority requirements of the declaration and confirming the amendment as validly approved ~~[(NRS 116.21175) This bill allows the declaration of an association to be amended by vote or agreement of a majority of all votes cast by units' owners or any larger majority of all votes cast by units' owners that the declaration specifies. This bill also repeals the provisions concerning petitions to the district court for an amendment to a declaration of an association.~~

~~Under existing law, a unit's owner may vote in person, by mail or by proxy. (NRS 116.31034, 116.311) This bill prohibits the executive board and the governing documents of an association from allowing the vote of a unit's owner who does not cast a vote in person, by mail or by proxy to be cast by any other person.] if: (1) the declaration required a supermajority of the votes allocated to amend the declaration; and (2) the amendment received at least a simple majority of the votes allocated. (NRS 116.21175) Section 6 of this bill amends this provision to allow an association or unit's owner to file such a petition if: (1) the declaration required either a simple majority or supermajority of the votes allocated; and (2) the amendment received at least 35 percent of the votes allocated.~~

Existing law allows certain homeowners' associations to provide that the voting rights of the units' owners in the association may be exercised by delegates or representatives. (NRS 116.31105) Section 7 of this bill provides that this form of voting may occur only during the period that the declarant is in control of the association and during the 2-year period after the declarant's control of the association is terminated. Section 7 also provides that this new limitation does not apply to planned communities containing time shares or condominiums or cooperatives with mixed uses.

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

Delete existing sections 1 through 3 of this bill and replace with the following new sections 1 through 8:

Section 1. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. Notwithstanding any provision of law to the contrary, the declaration of a common-interest community that consists of at least 1,000 units may provide for the governance of the common-interest

community by an executive board, the members of which are elected by the units' owners of election districts as set forth in this section.

2. If the declaration provides for the governance by an executive board as described in subsection 1, the declaration must:

(a) Provide for the establishment of election districts for the members of the executive board, which must:

(1) Be based on the number of units within the district, with the difference in the number of units between the largest district and the smallest district not being greater than 10 percent; and

(2) Be contiguous;

(b) Provide for the election of one member of the executive board from each such district to represent the units' owners of the district; and

(c) Require that each member of the executive board be elected by a majority of the votes cast by the units' owners of his respective district.

Sec. 3. Notwithstanding any provision of law to the contrary, the declaration of a common-interest community may provide that a supermajority vote of the members of the executive board is required for all actions or any specified action of the executive board.

Sec. 4. 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~~ Except as otherwise provided in subsection 6 of NRS 116.31105, prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government.

4. The provisions of chapters 117 and 278A of NRS do not apply to common-interest communities.

5. The Commission shall establish, by regulation:

(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.

Sec. 5. 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 sections 2 and 3 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.

Sec. 6. NRS 116.21175 is hereby amended to read as follows:

116.21175 1. Except as otherwise limited by subsection 4 of NRS 116.2117, if:

(a) To approve an amendment to the declaration pursuant to NRS 116.2117, the declaration requires:

(1) In a single-class voting structure, a majority or more than a majority of the total number of votes allocated to the single class to be cast in favor of the amendment; or

(2) In a multiclass voting structure, a majority or more than a majority of the total number of votes allocated to one or more of the multiple classes to be cast in favor of the amendment; and

(b) An amendment fails to receive the number of votes required by the declaration to be approved but:

(1) In a single-class voting structure, receives ~~[a majority]~~ at least 35 percent of the total number of votes allocated to the single class; or

(2) In a multiclass voting structure, receives in each of the multiple classes ~~[a majority]~~ at least 35 percent of the total number of votes allocated to that class,

↪ the association or any unit's owner may file a petition with the district court in any county in which any portion of the common-interest community is located asking for an order waiving the ~~[supermajority]~~ applicable voting requirements of the declaration and confirming the amendment as validly approved.

2. If the association or any unit's owner files a petition pursuant to subsection 1, the petition:

(a) Must contain sufficient information specifying:

(1) The actions that have been taken to obtain the number of votes required to approve the amendment under the declaration and whether those actions have conformed with the procedures set forth in the declaration;

(2) The amount of time that has been allowed for the units' owners to vote upon the amendment;

(3) The number and percentage of affirmative votes required in each voting class to approve the amendment under the declaration;

(4) The number and percentage of affirmative and negative votes actually received in each voting class with regard to the amendment; and

(5) Any other matters the petitioner considers relevant to the court's determination; and

(b) Must include, as exhibits to the petition, copies of:

- (1) The governing documents;
- (2) The complete text of the amendment and a statement explaining the need for the amendment and its purposes and objectives;
- (3) All notices and materials used in the effort to persuade the units' owners to approve the amendment; and
- (4) Any other documents the petitioner considers relevant to the court's determination.

3. Upon receiving the petition, the court shall:

- (a) Set the matter for hearing; and
- (b) Issue an ex parte order setting forth the manner in which the petitioner must give written notice of the hearing to all the units' owners in the association.

4. The court may grant the petition if it finds that the petitioner has presented evidence establishing that:

(a) The petitioner has given at least 15 days' written notice of the hearing to:

- (1) All the units' owners in the association;
- (2) Each city, if any, and each county in which any portion of the common-interest community is located; and
- (3) All other persons or entities that are entitled to notice under the declaration;

(b) The voting process regarding the amendment was conducted in accordance with all applicable provisions of the governing documents and state law;

(c) A reasonably diligent effort was made to allow all eligible units' owners and, if required by the governing documents, all lenders to vote on the amendment;

(d) The amendment:

(1) In a single-class voting structure, received ~~a majority~~ at least 35 percent of the total number of votes allocated to the single class; or

(2) In a multiclass voting structure, received in each of the multiple classes ~~a majority~~ at least 35 percent of the total number of votes allocated to that class; and

(e) The amendment is reasonable.

5. If the court grants the petition, the court shall enter an order waiving the ~~supermajority~~ applicable voting requirements of the declaration and confirming the amendment as validly approved.

6. An amendment confirmed by a final court order pursuant to this section is not effective until a certified copy of the amendment and the final court order have been recorded in each county in which any portion of the common-interest community is located. The amendment must be prepared, executed, recorded and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation,

by the president of the association, and the final court order must be recorded along with the amendment.

7. After the amendment and the final court order have been recorded pursuant to this section, the declaration, as amended, has the same force and effect as if the amendment had been approved in compliance with every requirement imposed by the governing documents.

8. Not later than 30 days after the date on which the amendment and the final court order are recorded pursuant to this section, the association shall mail to all the units' owners in the association:

- (a) A copy of the amendment and the final court order; and
- (b) A statement explaining that the amendment and the final court order have been recorded and that the declaration has been amended pursuant to this section.

Sec. 7. NRS 116.31105 is hereby amended to read as follows:

116.31105 1. ~~116.31105~~ *Except as otherwise provided in subsection 6, 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.*

2. ~~116.31105~~ *Except as otherwise provided in subsection 6, 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.*

3. 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. Notwithstanding any provision in the declaration, the election of any delegate or representative must be conducted by secret written ballot.

5. 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.

6. Except as otherwise provided in subsection 7, the voting rights of the units' owners in the association for a common-interest community may be exercised by delegates or representatives only during the period that the declarant is in control of the association and during the 2-year period after the declarant's control of the association is terminated pursuant to NRS 116.31032.

7. The provisions of subsection 6 do not apply to:

(a) A planned community containing any time shares; or

(b) A condominium or cooperative containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted.

Sec. 8. 1. This section and sections 1, 2, 3, 5 and 6 of this act become effective on October 1, 2007.

2. Sections 4 and 7 of this act become effective on March 31, 2009.

Senator Townsend moved the adoption of the amendment.

Remarks by Senators Townsend, Care and Beers.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 312.

Bill read second time.

The following amendment was proposed by the Committee on Human Resources and Education:

Amendment No. 342.

"SUMMARY—Revises provisions relating to education. (BDR 34-604)"

"AN ACT relating to education; revising provisions relating to the annual reports of accountability information relating to public schools; requiring the State Board of Education to establish alternative criteria for high school pupils to receive a standard high school diploma; establishing a process by which a high school pupil may take an examination to demonstrate competency in lieu of attending a course of study; expanding the age of compulsory school attendance from 17 years to 18 years; authorizing certain pupils to earn credit for high school courses before completion of certain requirements for promotion to high school; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The State Board of Education and each school district are required to prepare annual reports of accountability information. Those reports must include information on the drop out rate of pupils in grades ~~9-1~~ 9 to 12, inclusive. (NRS 385.3469, 385.347, 385.349) Sections 1 and 2 of this bill expand the annual reports of accountability information to include the rate of pupils who drop out of school in grades 6, 7 and 8.

Existing law requires a pupil to pass all subject areas of the high school proficiency examination for receipt of a standard high school diploma. (NRS 389.015) Section 4 of this bill requires the State Board to prescribe alternative criteria that a pupil may satisfy to receive a standard high school diploma if that pupil passes at least two of the subject areas of the high school proficiency examination but has not passed the examination in its entirety.

Current regulations adopted by the State Board allow a pupil to receive credit for a course of study if the pupil demonstrates competency in the course by taking an examination. (NAC 389.670) Section 5 of this bill provides that a pupil may be granted credit for a course without attending the course if he passes an examination, as prescribed by the State Board, demonstrating competency in the subject area of the course.

Existing law requires the State Board to prescribe requirements for promotion to high school and provides that a pupil must not be promoted to high school until those requirements are met. (NRS 392.033) Section 8 of this bill requires the board of trustees of each school district to adopt a policy for a pupil to be placed on academic probation and to earn credits required for high school while the pupil is completing the requirements for promotion to high school.

Existing law requires a child between the ages of 7 and 17 years to attend school. (NRS 392.040) Section 9 of this bill expands the age of compulsory school attendance to 18 years.

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

Section 1. NRS 385.3469 is hereby amended to read as follows:

385.3469 1. The State Board shall prepare an annual report of accountability that includes, without limitation:

(a) Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(b) Except as otherwise provided in subsection 2, pupil achievement, reported separately by gender and reported separately for the following subgroups of pupils:

(1) Pupils who are economically disadvantaged, as defined by the State Board;

(2) Pupils from major racial and ethnic groups, as defined by the State Board;

- (3) Pupils with disabilities;
- (4) Pupils who are limited English proficient; and
- (5) Pupils who are migratory children, as defined by the State Board.

(c) A comparison of the achievement of pupils in each subgroup identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(d) The percentage of all pupils who were not tested, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(e) Except as otherwise provided in subsection 2, the percentage of pupils who were not tested, reported separately by gender and reported separately for the subgroups identified in paragraph (b).

(f) The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(g) Information on whether each school district has made adequate yearly progress, including, without limitation, the name of each school district, if any, designated as demonstrating need for improvement pursuant to NRS 385.377 and the number of consecutive years that the school district has carried that designation.

(h) Information on whether each public school, including, without limitation, each charter school, has made adequate yearly progress, including, without limitation, the name of each public school, if any, designated as demonstrating need for improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(i) Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 389.012.

(j) The ratio of pupils to teachers in kindergarten and at each grade level for all elementary schools, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school, reported for each school district and for this State as a whole.

(k) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information on the professional qualifications of teachers employed by the school districts and charter schools, including, without limitation:

- (1) The percentage of teachers who are:
 - (I) Providing instruction pursuant to NRS 391.125;
 - (II) Providing instruction pursuant to a waiver of the requirements for

licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(l) The total expenditure per pupil for each school district in this State, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(m) The total statewide expenditure per pupil. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(n) For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(o) The annual rate of pupils who drop out of school in *grades 6, 7 and 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive*, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole . ~~[excluding]~~ *The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:*

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(p) The attendance of teachers who provide instruction, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(q) Incidents involving weapons or violence, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(r) Incidents involving the use or possession of alcoholic beverages or controlled substances, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(s) The suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(t) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(u) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(v) The transiency rate of pupils, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. For the purposes of this paragraph, a pupil is not a transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(w) Each source of funding for this State to be used for the system of public education.

(x) A compilation of the programs of remedial study purchased in whole or in part with money received from this State that are used in each school

district, including, without limitation, each charter school in the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study.

(2) An identification of each program of remedial study, listed by subject area.

(y) The percentage of pupils who graduated from a high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(z) The technological facilities and equipment available for educational purposes, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(aa) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who received:

(1) A standard high school diploma ~~[-]~~, *reported separately for pupils who received the diploma pursuant to:*

(I) Paragraph (a) of subsection 1 of section 4 of this act; and

(II) Paragraph (b) of subsection 1 of section 4 of this act.

(2) An adjusted diploma.

(3) A certificate of attendance.

(bb) The number and percentage of pupils who ~~failed to pass the high school proficiency examination, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.~~

(cc) The number of habitual truants who are reported to a school police officer or local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(dd) Information on the paraprofessionals employed at public schools in this State, including, without limitation, the charter schools in this State. The information must include:

(1) The number of paraprofessionals employed, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole; and

(2) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this

subparagraph apply to paraprofessionals who are employed in programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.

(ee) An identification of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(ff) A compilation of the special programs available for pupils at individual schools, listed by school and by school district, including, without limitation, each charter school in the district.

2. A separate reporting for a subgroup of pupils must not be made pursuant to this section if the number of pupils in that subgroup is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe a mechanism for determining the minimum number of pupils that must be in a subgroup for that subgroup to yield statistically reliable information.

3. The annual report of accountability must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

4. On or before September 1 of each year, the State Board shall:

(a) Provide for public dissemination of the annual report of accountability by posting a copy of the report on the Internet website maintained by the Department; and

(b) Provide written notice that the report is available on the Internet website maintained by the Department. The written notice must be provided to the:

(1) Governor;

(2) Committee;

(3) Bureau;

(4) Board of Regents of the University of Nevada;

(5) Board of trustees of each school district; and

(6) Governing body of each charter school.

5. Upon the request of the Governor, an entity described in paragraph (b) of subsection 4 or a member of the general public, the State Board shall provide a portion or portions of the annual report of accountability.

6. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 2. NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing

licensed *educational* personnel ~~[in education]~~ in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools in the school district. The board of trustees of each school district shall:

(a) Report the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school.

(b) For the information that is reported in an aggregated format, include the data that is applicable to the charter schools sponsored by the school district but not the charter schools that are sponsored by the State Board.

(c) Denote separately in the report those charter schools that are located within the school district and sponsored by the State Board.

2. The board of trustees of each school district shall, on or before August 15 of each year, prepare an annual report of accountability concerning:

(a) The educational goals and objectives of the school district.

(b) Pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school in the district. The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district, including, without limitation, each charter school in the district, and each grade in which the examinations were administered:

(1) The number of pupils who took the examinations;

(2) A record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school;

(3) Except as otherwise provided in this paragraph, pupil achievement, reported separately by gender and reported separately for the following subgroups of pupils:

(I) Pupils who are economically disadvantaged, as defined by the State Board;

(II) Pupils from major racial and ethnic groups, as defined by the State Board;

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

(V) Pupils who are migratory children, as defined by the State Board;

(4) A comparison of the achievement of pupils in each subgroup identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board;

(5) The percentage of pupils who were not tested;

(6) Except as otherwise provided in this paragraph, the percentage of pupils who were not tested, reported separately by gender and reported separately for the subgroups identified in subparagraph (3);

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available;

(8) Information that compares the results of pupils in the school district, including, without limitation, pupils enrolled in charter schools in the district, with the results of pupils throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison; and

(9) For each school in the district, including, without limitation, each charter school in the district, information that compares the results of pupils in the school with the results of pupils throughout the school district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

➔ A separate reporting for a subgroup of pupils must not be made pursuant to this paragraph if the number of pupils in that subgroup is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe the mechanism for determining the minimum number of pupils that must be in a subgroup for that subgroup to yield statistically reliable information.

(c) The ratio of pupils to teachers in kindergarten and at each grade level for each elementary school in the district and the district as a whole, including, without limitation, each charter school in the district, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school in the district and the district as a whole, including, without limitation, each charter school in the district.

(d) Information on the professional qualifications of teachers employed by each school in the district and the district as a whole, including, without limitation, each charter school in the district. The information must include, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth

in NRS 389.018, that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) On and after July 1, 2005, the number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) On and after July 1, 2006, the number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(e) The total expenditure per pupil for each school in the district and the district as a whole, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(f) The curriculum used by the school district, including:

(1) Any special programs for pupils at an individual school; and

(2) The curriculum used by each charter school in the district.

(g) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) For each elementary school, middle school and junior high school in the district, including, without limitation, each charter school in the district that provides instruction to pupils enrolled in a grade level other than high school, information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout

this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(h) The annual rate of pupils who drop out of school in *grades 6, 7 and 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive*, for each such grade, for each school in the district and for the district as a whole . ~~[excluding]~~ *The reporting for pupils in grades 9 to 12, inclusive, excludes* pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(i) Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(j) Efforts made by the school district and by each school in the district, including, without limitation, each charter school in the district, to increase:

(1) Communication with the parents of pupils in the district; and

(2) The participation of parents in the educational process and activities relating to the school district and each school, including, without limitation, the existence of parent organizations and school advisory committees.

(k) Records of incidents involving weapons or violence for each school in the district, including, without limitation, each charter school in the district.

(l) Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district, including, without limitation, each charter school in the district.

(m) Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

(n) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(o) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(p) The transiency rate of pupils for each school in the district and the district as a whole, including, without limitation, each charter school in the district. For the purposes of this paragraph, a pupil is not transient if he is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(q) Each source of funding for the school district.

(r) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the

district and the district as a whole, including, without limitation, each charter school sponsored by the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study for each school in the district and the district as a whole, including, without limitation, each charter school in the district.

(2) An identification of each program of remedial study, listed by subject area.

(s) For each high school in the district, including, without limitation, each charter school in the district, the percentage of pupils who graduated from that high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

(t) The technological facilities and equipment available at each school, including, without limitation, each charter school, and the district's plan to incorporate educational technology at each school.

(u) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who received:

(1) A standard high school diploma ~~[-]~~, *reported separately for pupils who received the diploma pursuant to:*

(I) Paragraph (a) of subsection 1 of section 4 of this act; and

(II) Paragraph (b) of subsection 1 of section 4 of this act.

(2) An adjusted diploma.

(3) A certificate of attendance.

(v) For each school in the district and the district as a whole, including, without limitation, each charter school in the district, the number and percentage of pupils who ~~did not receive a high school diploma because the pupils~~ failed to pass the high school proficiency examination.

(w) The number of habitual truants who are reported to a school police officer or law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, for each school in the district and for the district as a whole.

(x) The amount and sources of money received for the training and professional development of teachers and other educational personnel for each school in the district and for the district as a whole, including, without limitation, each charter school in the district.

(y) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

(z) Information on whether each public school in the district, including,

without limitation, each charter school in the district, has made adequate yearly progress, including, without limitation:

(1) The number and percentage of schools in the district, if any, that have been designated as needing improvement pursuant to NRS 385.3623; and

(2) The name of each school, if any, in the district that has been designated as needing improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(aa) Information on the paraprofessionals employed by each public school in the district, including, without limitation, each charter school in the district. The information must include:

(1) The number of paraprofessionals employed at the school; and

(2) The number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in positions supported with Title I money and to paraprofessionals who are not employed in positions supported with Title I money.

(bb) For each high school in the district, including, without limitation, each charter school that operates as a high school, information that provides a comparison of the rate of graduation of pupils enrolled in the high school with the rate of graduation of pupils throughout the district and throughout this State. The information required by this paragraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(cc) An identification of the appropriations made by the Legislature that are available to the school district or the schools within the district and programs approved by the Legislature to improve the academic achievement of pupils.

(dd) Such other information as is directed by the Superintendent of Public Instruction.

3. The records of attendance maintained by a school for purposes of paragraph (i) of subsection 2 must include the number of teachers who are in attendance at school and the number of teachers who are absent from school. A teacher shall be deemed in attendance if the teacher is excused from being present in the classroom by the school in which he is employed for one of the following reasons:

(a) Acquisition of knowledge or skills relating to the professional development of the teacher; or

(b) Assignment of the teacher to perform duties for cocurricular or extracurricular activities of pupils.

4. The annual report of accountability prepared pursuant to subsection 2 must:

(a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and

(b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

5. The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to subsection 2 and provide the forms to the respective school districts.

(b) Provide statistical information and technical assistance to the school districts to ensure that the reports provide comparable information with respect to each school in each district and among the districts throughout this State.

(c) Consult with a representative of the:

- (1) Nevada State Education Association;
- (2) Nevada Association of School Boards;
- (3) Nevada Association of School Administrators;
- (4) Nevada Parent Teacher Association;
- (5) Budget Division of the Department of Administration; and
- (6) Legislative Counsel Bureau,

↪ concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

6. The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

7. On or before August 15 of each year, the board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required in paragraph (g) of subsection 2.

8. On or before August 15 of each year, the board of trustees of each school district shall:

(a) Provide written notice that the report required pursuant to subsection 2 is available on the Internet website maintained by the school district, if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

- (1) Governor;
- (2) State Board;
- (3) Department;
- (4) Committee; and
- (5) Bureau.

(b) Provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school in the district, the residents of the district, and the parents and guardians of pupils enrolled in

schools in the district, including, without limitation, each charter school in the district.

9. Upon the request of the Governor, an entity described in paragraph (a) of subsection 8 or a member of the general public, the board of trustees of a school district shall provide a portion or portions of the report required pursuant to subsection 2.

10. As used in this section:

(a) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(b) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 3. Chapter 389 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.

Sec. 4. 1. *A pupil must receive a standard high school diploma if he:*

(a) Passes all subject areas of the high school proficiency examination administered pursuant to NRS 389.015 and otherwise satisfies the requirements for graduation from high school; or

(b) Passes at least two subject areas of the high school proficiency examination administered pursuant to NRS 389.015, satisfies the alternative criteria prescribed by the State Board pursuant to subsection 3 and otherwise satisfies the requirements for graduation from high school.

2. *A pupil with a disability who does not satisfy the requirements for receipt of a standard high school diploma may receive a diploma designated as an adjusted diploma if he satisfies the requirements set forth in his individualized education program. As used in this subsection, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).*

3. *The State Board shall adopt regulations that prescribe the alternative criteria for a pupil to receive a standard high school diploma pursuant to paragraph (b) of subsection 1, including, without limitation:*

~~(a) An overall grade point average;~~

~~(b)~~ *An essay;*

~~(c)~~ *(b) A senior project; or*

~~(d)~~ *(c) A portfolio of work,*

or any combination thereof, that demonstrate proficiency in the subject areas on the high school proficiency examination which the pupil failed to pass.

Sec. 5. 1. *A pupil may be granted credit for a specific course of study without having attended the regularly scheduled classes in the course if he demonstrates his competence to meet the objectives of the course through his performance on an examination prescribed by the State Board.*

2. *The State Board shall adopt regulations that prescribe the:*

(a) Form on which a pupil may apply to the board of trustees of a school district in which he attends school to take an examination pursuant to subsection 1;

(b) Courses of study for which pupils may take an examination pursuant to subsection 1; and

(c) Minimum score on each such examination that is required to demonstrate competency in a course.

Sec. 6. NRS 389.015 is hereby amended to read as follows:

389.015 1. The board of trustees of each school district shall administer examinations in all public schools of the school district. The governing body of a charter school shall administer the same examinations in the charter school. The examinations administered by the board of trustees and governing body must determine the achievement and proficiency of pupils in:

- (a) Reading;
- (b) Mathematics; and
- (c) Science.

2. The examinations required by subsection 1 must be:

- (a) Administered before the completion of grades 4, 7, 10 and 11.
- (b) Administered in each school district and each charter school at the same time during the spring semester. The time for the administration of the examinations must be prescribed by the State Board.

(c) Administered in each school in accordance with uniform procedures adopted by the State Board. The Department shall monitor the compliance of school districts and individual schools with the uniform procedures.

(d) Administered in each school in accordance with the plan adopted pursuant to NRS 389.616 by the Department and with the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in which the examinations are administered. The Department shall monitor the compliance of school districts and individual schools with:

- (1) The plan adopted by the Department; and
- (2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

(e) Scored by a single private entity that has contracted with the State Board to score the examinations. The private entity that scores the examinations shall report the results of the examinations in the form and by the date required by the Department.

3. Not more than 14 working days after the results of the examinations are reported to the Department by a private entity that scored the examinations, the Superintendent of Public Instruction shall certify that the results of the examinations have been transmitted to each school district and each charter school. Not more than 10 working days after a school district receives the results of the examinations, the superintendent of schools of each school district shall certify that the results of the examinations have been transmitted to each school within the school district. Except as otherwise provided in this subsection, not more than 15 working days after each school receives the results of the examinations, the principal of each school and the

governing body of each charter school shall certify that the results for each pupil have been provided to the parent or legal guardian of the pupil:

(a) During a conference between the teacher of the pupil or administrator of the school and the parent or legal guardian of the pupil; or

(b) By mailing the results of the examinations to the last known address of the parent or legal guardian of the pupil.

➔ If a pupil fails the high school proficiency examination, the school shall notify the pupil and the parents or legal guardian of the pupil *of each subject area that the pupil failed* as soon as practicable but not later than 15 working days after the school receives the results of the examination.

4. If a pupil fails to demonstrate at least adequate achievement on the examination administered before the completion of grade 4, 7 or 10, he may be promoted to the next higher grade, but the results of his examination must be evaluated to determine what remedial study is appropriate. If such a pupil is enrolled at a school that has failed to make adequate yearly progress or in which less than 60 percent of the pupils enrolled in grade 4, 7 or 10 in the school who took the examinations administered pursuant to this section received an average score on those examinations that is at least equal to the 26th percentile of the national reference group of pupils to which the examinations were compared, the pupil must, in accordance with the requirements set forth in this subsection, complete remedial study that is determined to be appropriate for the pupil.

5. If a pupil fails to pass the *high school* proficiency examination , ~~administered before the completion of grade 11,~~ he must not be graduated until he ~~is~~ :

(a) *Is* able, through remedial study, to pass the proficiency examination ~~is~~ ; or

(b) *Passes at least two subject areas tested on the proficiency examination and satisfies the alternative criteria prescribed by the State Board pursuant to section 4 of this act,*

➔ but he may be given a certificate of attendance, in place of a diploma, if he has reached the age of ~~17~~ 18 years.

6. The State Board shall prescribe standard examinations of achievement and proficiency to be administered pursuant to subsection 1. The high school proficiency examination must include the subjects of reading, mathematics and science and, except for the writing portion prescribed pursuant to NRS 389.550, must be developed, printed and scored by a nationally recognized testing company in accordance with the process established by the testing company. The examinations on reading, mathematics and science prescribed for grades 4, 7 and 10 must be selected from examinations created by private entities and administered to a national reference group, and must allow for a comparison of the achievement and proficiency of pupils in grades 4, 7 and 10 in this State to that of a national reference group of pupils in grades 4, 7 and 10. The questions contained in the examinations and the

approved answers used for grading them are confidential, and disclosure is unlawful except:

(a) To the extent necessary for administering and evaluating the examinations.

(b) That a disclosure may be made to a:

(1) State officer who is a member of the Executive or Legislative Branch to the extent that it is necessary for the performance of his duties;

(2) Superintendent of schools of a school district to the extent that it is necessary for the performance of his duties;

(3) Director of curriculum of a school district to the extent that it is necessary for the performance of his duties; and

(4) Director of testing of a school district to the extent that it is necessary for the performance of his duties.

(c) That specific questions and answers may be disclosed if the Superintendent of Public Instruction determines that the content of the questions and answers is not being used in a current examination and making the content available to the public poses no threat to the security of the current examination process.

Sec. 7. NRS 389.0173 is hereby amended to read as follows:

389.0173 1. The Department shall develop an informational pamphlet concerning the high school proficiency examination for pupils who are enrolled in junior high, middle school and high school, and their parents and legal guardians. The pamphlet must include a written explanation of the:

(a) Importance of passing the examination, including, without limitation, an explanation that if the pupil fails the examination, *or does not pass at least two subject areas tested on the examination and meet the alternative requirements prescribed by the State Board*, he is not eligible to receive a standard high school diploma;

(b) Subject areas tested on the examination;

(c) Format for the examination, including, without limitation, the range of items that are contained on the examination;

(d) Manner by which the scaled score, as reported to pupils and their parents or legal guardians, is derived from the raw score;

(e) Timeline by which the results of the examination must be reported to pupils and their parents or legal guardians;

(f) Maximum number of times that a pupil is allowed to take the examination if he fails to pass the examination after the first administration;

(g) Courses of study that the Department recommends that pupils take to prepare the pupils to successfully meet the academic challenges of the examination and pass the examination; and

(h) Courses of study which the Department recommends that pupils take in high school to successfully prepare for the college entrance examinations.

2. The Department shall review the pamphlet on an annual basis and make such revisions to the pamphlet as it considers necessary to ensure that pupils and their parents or legal guardians fully understand the examination.

3. On or before September 1, the Department shall provide a copy of the pamphlet or revised pamphlet to the board of trustees of each school district and the governing body of each charter school that includes pupils enrolled in a junior high, middle school or high school grade level.

4. The board of trustees of each school district shall provide a copy of the pamphlet to each junior high, middle school or high school within the school district for posting. The governing body of each charter school shall ensure that a copy of the pamphlet is posted at the charter school. Each principal of a junior high, middle school, high school or charter school shall ensure that the teachers, counselors and administrators employed at the school fully understand the contents of the pamphlet.

5. On or before January 15, the:

(a) Board of trustees of each school district shall provide a copy of the pamphlet to each pupil who is enrolled in a junior high, middle school or high school of the school district and to the parents or legal guardians of such a pupil.

(b) Governing body of each charter school shall provide a copy of the pamphlet to each pupil who is enrolled in the charter school at a junior high, middle school or high school grade level and to the parents or legal guardians of such a pupil.

Sec. 8. NRS 392.033 is hereby amended to read as follows:

392.033 1. The State Board shall adopt regulations which prescribe the courses of study required for promotion to high school, which may include the credits to be earned.

2. ~~The~~ *Except as otherwise provided in subsection 4, the board of trustees of a school district shall not promote a pupil to high school if the pupil does not complete the course of study or credits required for promotion. The board of trustees of the school district in which the pupil is enrolled may provide programs to complete the courses of study required for promotion to high school.*

3. The board of trustees of each school district shall adopt a procedure for evaluating the course of study or credits completed by a pupil who transfers to a junior high or middle school from a junior high or middle school in this State or from a school outside of this State.

4. *The board of trustees of each school district shall adopt a policy that allows a pupil who has not completed the courses of study or credits required for promotion to high school to be placed on academic probation and to enroll in high school or otherwise earn the credits required in high school while the pupil completes the requirements for promotion to high school pursuant to this section. The policy must include the criteria for eligibility of a pupil to be placed on academic probation.*

Sec. 9. NRS 392.040 is hereby amended to read as follows:

392.040 1. Except as otherwise provided by law, each parent, custodial parent, guardian or other person in the State of Nevada having control or charge of any child between the ages of 7 and ~~17~~ 18 years shall send the

child to a public school during all the time the public school is in session in the school district in which the child resides ~~[7]~~ *unless the child has graduated from high school.*

2. A child who is 5 years of age on or before September 30 of a school year may be admitted to kindergarten at the beginning of that school year, and his enrollment must be counted for purposes of apportionment. If a child is not 5 years of age on or before September 30 of a school year, the child must not be admitted to kindergarten.

3. Except as otherwise provided in subsection 4, a child who is 6 years of age on or before September 30 of a school year must:

(a) If he has not completed kindergarten, be admitted to kindergarten at the beginning of that school year; or

(b) If he has completed kindergarten, be admitted to the first grade at the beginning of that school year,

↪ and his enrollment must be counted for purposes of apportionment. If a child is not 6 years of age on or before September 30 of a school year, the child must not be admitted to the first grade until the beginning of the school year following his sixth birthday.

4. The parents, custodial parent, guardian or other person within the State of Nevada having control or charge of a child who is 6 years of age on or before September 30 of a school year may elect for the child not to attend kindergarten or the first grade during that year. The parents, custodial parent, guardian or other person who makes such an election shall file with the board of trustees of the appropriate school district a waiver in a form prescribed by the board.

5. Whenever a child who is 6 years of age is enrolled in a public school, each parent, custodial parent, guardian or other person in the State of Nevada having control or charge of the child shall send him to the public school during all the time the school is in session. If the board of trustees of a school district has adopted a policy prescribing a minimum number of days of attendance for pupils enrolled in kindergarten or first grade pursuant to NRS 392.122, the school district shall provide to each parent and legal guardian of a pupil who elects to enroll his child in kindergarten or first grade a written document containing a copy of that policy and a copy of the policy of the school district concerning the withdrawal of pupils from kindergarten or first grade. Before the child's first day of attendance at a school, the parent or legal guardian shall sign a statement on a form provided by the school district acknowledging that he has read and understands the policy concerning attendance and the policy concerning withdrawal of pupils from kindergarten or first grade. The parent or legal guardian shall comply with the applicable requirements for attendance. This requirement for attendance does not apply to any child under the age of 7 years who has not yet been enrolled or has been formally withdrawn from enrollment in public school.

6. A child who is 7 years of age on or before September 30 of a school year must:

(a) If he has completed kindergarten and the first grade, be admitted to the second grade.

(b) If he has completed kindergarten, be admitted to the first grade.

(c) If the parents, custodial parent, guardian or other person in the State of Nevada having control or charge of the child waived the child's attendance from kindergarten pursuant to subsection 4, undergo an assessment by the district pursuant to subsection 7 to determine whether the child is prepared developmentally to be admitted to the first grade. If the district determines that the child is prepared developmentally, he must be admitted to the first grade. If the district determines that the child is not so prepared, he must be admitted to kindergarten.

➡ The enrollment of any child pursuant to this subsection must be counted for apportionment purposes.

7. Each school district shall prepare and administer before the beginning of each school year a developmental screening test to a child:

(a) Who is 7 years of age on or before September 30 of the next school year; and

(b) Whose parents waived his attendance from kindergarten pursuant to subsection 4,

➡ to determine whether the child is prepared developmentally to be admitted to the first grade. The results of the test must be made available to the parents, custodial parent, guardian or other person within the State of Nevada having control or charge of the child.

8. A child who becomes a resident of this State after completing kindergarten or beginning first grade in another state in accordance with the laws of that state may be admitted to the grade he was attending or would be attending had he remained a resident of the other state regardless of his age, unless the board of trustees of the school district determines that the requirements of this section are being deliberately circumvented.

9. As used in this section, "kindergarten" includes:

(a) A kindergarten established by the board of trustees of a school district pursuant to NRS 388.060;

(b) A kindergarten established by the governing body of a charter school; and

(c) An authorized program of instruction for kindergarten offered in a child's home pursuant to NRS 388.060.

Sec. 10. NRS 392.110 is hereby amended to read as follows:

392.110 1. Any child between the ages of 14 and ~~{17}~~ 18 years who has completed the work of the first eight grades may be excused from full-time school attendance and may be permitted to enter proper employment or apprenticeship, by the written authority of the board of trustees excusing the child from such attendance. The board's written authority ~~{shall}~~ must state the reason or reasons for such excuse.

2. In all such cases no employer or other person shall employ or contract for the services or time of such child until the child presents a written permit

therefor from the attendance officer or board of trustees. The permit ~~{shall}~~ *must* be kept on file by the employer ~~{,}~~ and , upon the termination of employment ~~{shall}~~ , *must* be returned by the employer to the board of trustees or other authority issuing it.

Sec. 11. NRS 392.130 is hereby amended to read as follows:

392.130 1. Within the meaning of this chapter, a pupil shall be deemed a truant who is absent from school without the written approval of his teacher or the principal of the school, unless the pupil is physically or mentally unable to attend school. The teacher or principal shall give his written approval for a pupil to be absent if an emergency exists or upon the request of a parent or legal guardian of the pupil. Before a pupil may attend or otherwise participate in school activities outside the classroom during regular classroom hours, he must receive the approval of the teacher or principal.

2. An unapproved absence for at least one period, or the equivalent of one period for the school, of a school day may be deemed a truancy for the purposes of this section.

3. If a pupil is physically or mentally unable to attend school, the parent or legal guardian or other person having control or charge of the pupil shall notify the teacher or principal of the school orally or in writing, in accordance with the policy established by the board of trustees of the school district, within 3 days after the pupil returns to school.

4. An absence which has not been approved pursuant to subsection 1 or 3 shall be deemed an unapproved absence. In the event of an unapproved absence, the teacher, attendance officer or other school official shall deliver or cause to be delivered a written notice of truancy to the parent, legal guardian or other person having control or charge of the child. The written notice must be delivered to the parent, legal guardian or other person who has control of the child. The written notice must inform the parents or legal guardian of such absences in a form specified by the Department.

5. As used in this section, "physically or mentally unable to attend" does not include a physical or mental condition for which a pupil is excused pursuant to NRS 392.050.

6. ~~{Notwithstanding the provisions of NRS 392.040 to the contrary, the}~~
The provisions of this section apply to all pupils who are less than 18 years of age and enrolled in public schools, including, without limitation, pupils who are 17 years of age or older but less than 18 years of age.} *required to attend school pursuant to NRS 392.040.*

Sec. 12. NRS 392.140 is hereby amended to read as follows:

392.140 1. Any child who has been declared a truant three or more times within one school year must be declared a habitual truant.

2. Any child who has once been declared a habitual truant and who in an immediately succeeding year is absent from school without the written:

(a) Approval of his teacher or the principal of the school pursuant to subsection 1 of NRS 392.130; or

(b) Notice of his parent or legal guardian or other person who has control or charge over the pupil pursuant to subsection 3 of NRS 392.130,

↪ may again be declared a habitual truant.

3. ~~[Notwithstanding the provisions of NRS 392.040 to the contrary, the]~~ The provisions of this section apply to all pupils who are ~~[less than 18 years of age and enrolled in public schools, including, without limitation, pupils who are 17 years of age or older but less than 18 years of age.]~~ required to attend school pursuant to NRS 392.040.

Sec. 13. NRS 392.141 is hereby amended to read as follows:

392.141 ~~[Notwithstanding the provisions of NRS 392.040 to the contrary, the]~~ The provisions of NRS 392.144, 392.146 and 392.147 apply to all pupils who are ~~[less than 18 years of age and enrolled in public schools, including, without limitation, pupils who are 17 years of age or older but less than 18 years of age.]~~ required to attend school pursuant to NRS 392.040.

Sec. 14. NRS 392.149 is hereby amended to read as follows:

392.149 1. Upon receipt of a report pursuant to NRS 392.144 or 392.147, if it appears after investigation that a pupil is a habitual truant, the school police officer or law enforcement agency to whom the report is made shall prepare manually or electronically a citation directing the pupil to appear in the proper juvenile court.

2. A copy of the citation must be delivered to the pupil and to the parent, guardian or any other person who has control or charge of the pupil by:

(a) The local law enforcement agency;

(b) A school police officer employed by the board of trustees of the school district; or

(c) An attendance officer appointed by the board of trustees of the school district.

3. The citation must be in the form prescribed for misdemeanor citations in NRS 171.1773.

4. ~~[Notwithstanding the provisions of NRS 392.040 to the contrary, the]~~ The provisions of this section apply to all pupils who are ~~[less than 18 years of age and enrolled in public schools, including, without limitation, pupils who are 17 years of age or older but less than 18 years of age.]~~ required to attend school pursuant to NRS 392.040.

Sec. 15. NRS 392.160 is hereby amended to read as follows:

392.160 1. Any peace officer, the attendance officer or any other school officer shall, during school hours, take into custody without warrant:

(a) Any child between the ages of 7 and ~~[17]~~ 18 years; and

(b) Any child who has arrived at the age of 6 years but not at the age of 7 years and is enrolled in a public school,

↪ who has been reported to him by the teacher, superintendent of schools or other school officer as an absentee from instruction upon which he is lawfully required to attend.

2. ~~[Any peace officer, the attendance officer or any other school officer shall, during school hours, take into custody without warrant any child who is 17 years of age or older but less than 18 years of age if:~~

~~(a) The child is enrolled in a public school; and~~

~~(b) A teacher, superintendent of schools or other school officer has reported the child as absent from instruction.~~

~~3.]~~ Except as otherwise provided in subsection ~~[4:]~~ 3:

(a) During school hours, the officer having custody shall forthwith deliver the child to the superintendent of schools, principal or other school officer at the child's school of attendance.

(b) After school hours, the officer having custody shall deliver the child to the parent, guardian or other person having control or charge of the child.

~~[4:]~~ 3. The board of trustees of a school district or the governing body of a charter school may enter into an agreement with a counseling agency to permit delivery of the child to the agency. For the purposes of this subsection, "counseling agency" means an agency designated by the school district in which the child is enrolled to provide counseling for the child and the parent, guardian or other person having control or charge of the child.

Sec. 16. NRS 392.170 is hereby amended to read as follows:

392.170 Upon the written complaint of any person, the board of trustees of a school district or the governing body of a charter school shall:

1. Make a full and impartial investigation of all charges against parents, guardians or other persons having control or charge of any child who is ~~[17] under 18 years of age [or younger]~~ and required to attend school pursuant to NRS 392.040 for violation of any of the provisions of NRS 392.040 to 392.110, inclusive, or 392.130 to 392.160, inclusive.

2. Make and file a written report of the investigation and the findings thereof in the records of the board.

Sec. 17. NRS 392.180 is hereby amended to read as follows:

392.180 If it appears upon investigation that any parent, guardian or other person having control or charge of any child who is ~~[17] under 18 years of age [or younger]~~ and required to attend school pursuant to NRS 392.040 has violated any of the provisions of NRS 392.040 to 392.110, inclusive, or 392.130 to 392.160, inclusive, the clerk of the board of trustees or the governing body of a charter school in which the child is enrolled, except as otherwise provided in NRS 392.190, shall make and file in the proper court a criminal complaint against the parent, guardian or other person, charging the violation, and shall see that the charge is prosecuted by the proper authority.

Sec. 18. NRS 392.200 is hereby amended to read as follows:

392.200 Any taxpayer, school administrator, school officer or deputy school officer in the State of Nevada may make and file in the proper court a criminal complaint against a parent, guardian or other person who has control or charge of any child who is ~~[17] under 18 years of age [or younger]~~ and required to attend school pursuant to NRS 392.040 who violates any of the

provisions of law requiring the attendance of children in the public schools of this State.

Sec. 19. NRS 392.215 is hereby amended to read as follows:

392.215 Any parent, guardian or other person who, with intent to deceive under NRS 392.040 to 392.110, inclusive, or 392.130 to 392.165, inclusive:

1. Makes a false statement concerning the age or attendance at school;
2. Presents a false birth certificate or record of attendance at school; or
3. Refuses to furnish a suitable identifying document, record of attendance at school or proof of change of name, upon request by a local law enforcement agency conducting an investigation in response to notification pursuant to subsection 4 of NRS 392.165,
↪ of a child under ~~17~~ 18 years of age who is under his control or charge, is guilty of a misdemeanor.

Sec. 20. NRS 394.145 is hereby amended to read as follows:

394.145 1. A private elementary or secondary school in this state shall not permanently admit any child until the parent or guardian of the child furnishes a birth certificate or other document suitable as proof of the child's identity and, if applicable, a copy of the child's records from the school he most recently attended.

2. Except as otherwise provided in subsection 3, a child must be admitted to a school under his name as it appears in the identifying document or records required by subsection 1, unless the parent or guardian furnishes a court order or decree authorizing a change of name or directing the principal or other person in charge of that school to admit the child under a name other than the name which appears in the identifying document or records.

3. A child who is in the custody of the agency which provides child welfare services, as defined in NRS 432B.030, may be admitted to a school under a name other than the name which appears in the identifying document or records required by subsection 1 if the court determines that to do so would be in the best interests of the child.

4. If the parent or guardian fails to furnish the identifying document or records required by subsection 1 within 30 days after the child is conditionally admitted, the principal or other person in charge of the school shall notify the local law enforcement agency and request a determination as to whether the child has been reported as missing.

5. Any parent, guardian or other person who, with intent to deceive under this section:

- (a) Presents a false birth certificate or record of attendance at school; or
- (b) Refuses to furnish a suitable identifying document, record of attendance at school or proof of change of name, upon request by a local law enforcement agency conducting an investigation in response to notification pursuant to subsection 4,
↪ of a child under ~~17~~ 18 years of age who is under his control or charge, is guilty of a misdemeanor.

Sec. 21. On or before January 1, 2008, the State Board of Education shall adopt regulations that prescribe, in accordance with section 4 of this act, the alternative criteria for receipt of a standard high school diploma. The regulations must be effective on January 1, 2008, for application to the pupils who graduate in 2008 and thereafter.

Sec. 22. This act becomes effective on July 1, 2007.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 319.

Bill read second time.

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

Amendment No. 159.

"SUMMARY—~~[Makes various changes relating to the licensing and registration of]~~ *Revises provisions governing the licensing and taxation of* motor vehicles *that are* exhibited or displayed in certain museums. (BDR 43-1131)"

"AN ACT relating to motor vehicles; ~~[requiring the Department of Motor Vehicles to issue special license plates to a nonprofit organization which operates a museum for the exhibition and display of motor vehicles for use on certain motor vehicles; prohibiting the Department from charging or collecting any fees for the transfer of a motor vehicle from certain governmental entities to certain nonprofit organizations;]~~ *exempting vehicles that are exhibited or displayed in certain museums from the governmental services tax; providing for the issuance of distinguishing license plates for such vehicles;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 1 of this bill requires the Department of Motor Vehicles to issue special license plates, without charge or the imposition of the governmental services tax, to any nonprofit organization which operates a museum for the exhibition or display of motor vehicles, for use when the motor vehicles are driven for test drives, parades or special events or driven within 70 miles from the museum.]~~

~~Existing law prohibits a registration fee from being imposed on vehicles owned by the United States, the State of Nevada, any political subdivision of the State, or any county, municipal corporation, city, unincorporated town or school district in the State. (NRS 482.503) Sections 2, 4 and 6-8 prohibit registration fees from being imposed on any nonprofit organization which operates a museum for the exhibition or display of motor vehicles. (NRS 482.268, 482.480, 482.500)]~~ *Existing law provides for the issuance by the Department of Motor Vehicles of distinguishing license plates for certain*

vehicles that are exempt from the governmental services tax. (NRS 371.100, 482.368) This bill includes as such an exempt vehicle any vehicle that is exhibited or displayed in a museum which is dedicated to the exhibition and display of motor vehicles and which is operated by an organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c)(3).

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

Delete existing sections 1 through 8 of this bill and replace with the following new sections 1 and 2:

Section 1. NRS 482.368 is hereby amended to read as follows:

482.368 1. Except as otherwise provided in subsection 2, the Department shall provide suitable distinguishing license plates for exempt vehicles. These plates must be displayed on the vehicles in the same manner as provided for privately owned vehicles. The fee for the issuance of the plates is \$5. Any license plates authorized by this section must be immediately returned to the Department when the vehicle for which they were issued ceases to be used exclusively for the purpose for which it was exempted from the governmental services tax.

2. License plates furnished for:

(a) Those vehicles which are maintained for and used by the Governor or under the authority and direction of the Chief Parole and Probation Officer, the State Contractors' Board and auditors, the State Fire Marshal, the Investigation Division of the Department of Public Safety and any authorized federal law enforcement agency or law enforcement agency from another state;

(b) One vehicle used by the Department of Corrections, three vehicles used by the Department of Wildlife, two vehicles used by the Caliente Youth Center and four vehicles used by the Nevada Youth Training Center;

(c) Vehicles of a city, county or the State, if authorized by the Department for the purposes of law enforcement or work related thereto or such other purposes as are approved upon proper application and justification; and

(d) Vehicles maintained for and used by investigators of the following:

- (1) The State Gaming Control Board;
- (2) The State Department of Agriculture;
- (3) The Attorney General;
- (4) City or county juvenile officers;
- (5) District attorneys' offices;
- (6) Public administrators' offices;
- (7) Public guardians' offices;
- (8) Sheriffs' offices;
- (9) Police departments in the State; and
- (10) The Securities Division of the Office of the Secretary of State,

➔ must not bear any distinguishing mark which would serve to identify the vehicles as owned by the State, county or city. These license plates must be issued annually for \$12 per plate or, if issued in sets, per set.

3. The Director may enter into agreements with departments of motor vehicles of other states providing for exchanges of license plates of regular series for vehicles maintained for and used by investigators of the law enforcement agencies enumerated in paragraph (d) of subsection 2, subject to all of the requirements imposed by that paragraph, except that the fee required by that paragraph must not be charged.

4. ~~[Applications]~~ Except as otherwise provided in subsection 5, applications for the ~~[licenses]~~ license plates must be made through the head of the department, board, bureau, commission, school district or irrigation district, or through the chairman of the board of county commissioners of the county or town or through the mayor of the city, owning or controlling the vehicles, and no plate or plates may be issued until a certificate has been filed with the Department showing that the name of the department, board, bureau, commission, county, city, town, school district or irrigation district, as the case may be, and the words "For Official Use Only" have been permanently and legibly affixed to each side of the vehicle, except those vehicles enumerated in subsection 2.

5. Applications for license plates for exempt vehicles that are exhibited or displayed in a museum which is dedicated to the exhibition and display of motor vehicles and which is operated by an organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c)(3) must be made through the head of the museum.

6. As used in this section, "exempt vehicle" means a vehicle exempt from the governmental services tax, except a vehicle owned by the United States.

~~[6.]~~ 7. The Department shall adopt regulations governing the use of all license plates provided for in this section. Upon a finding by the Department of any violation of its regulations, it may revoke the violator's privilege of registering vehicles pursuant to this section.

Sec. 2. NRS 371.100 is hereby amended to read as follows:

371.100 1. The governmental services tax imposed by this chapter does not apply to:

(a) Vehicles owned by the United States, the State of Nevada, any political subdivision of the State of Nevada, or any county, municipal corporation, city, unincorporated town or school district in the State of Nevada;

(b) Except for vehicles used for commercial purposes, vehicles owned by the governing body of an Indian reservation or Indian colony in this State if:

(1) The Indian tribe of the reservation or colony is recognized by federal law; and

(2) The governing body is located on the reservation or colony;

(c) Vehicles for whose operation money is provided by the State or Federal Government and which are operated solely for the transportation of or furnishing services to elderly or handicapped persons; ~~for~~

(d) Emergency vehicles owned by any volunteer fire department or volunteer ambulance service based in this State ~~;~~ *or*

(e) Vehicles that are exhibited or displayed in a museum which is dedicated to the exhibition and display of motor vehicles and which is operated by an organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c)(3).

2. Any vehicle which ceases to be used exclusively for the purpose for which it is exempted from the governmental services tax by this section becomes immediately subject to that tax.

3. Except as otherwise provided in subsection 4, vehicles exempted from the governmental services tax by this section which are leased, loaned or otherwise made available to and used by a private person, association or corporation in connection with a business conducted for profit are subject to taxation in the same amount and to the same extent as though the lessee or user were the owner of such vehicle.

4. Vehicles which are used by a private person and are dedicated for exclusive use as part of a system which:

- (a) Operates vehicles for public transportation in an urban area;
 - (b) Transports persons who pay the established fare; and
 - (c) Uses public money to operate the system or acquire new equipment,
- are exempted from the governmental services tax imposed by this chapter.

Senator Heck moved the adoption of the amendment.

Remarks by Senator Heck.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 328.

Bill read second time.

The following amendment was proposed by the Committee on Human Resources and Education:

Amendment No. 317.

"SUMMARY—Revises provisions governing educational personnel. (BDR 34-473)"

"AN ACT relating to educational personnel; ~~prohibiting~~ *requiring* the board of trustees of ~~each~~ *each* school district ~~from employing or reemploying a person as an administrator unless that person has certain experience in a classroom;~~ *to adopt a program to engage administrators in annual classroom instruction and observation;* making various changes regarding the evaluation and admonition of educational personnel; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The board of trustees of a school district is authorized to employ a superintendent of schools, teachers and all other necessary employees. (NRS 391.100, 391.110, 391.120) Section 1 of this bill ~~prohibits the board of trustees of a school district from employing or reemploying a person as an~~

~~administrator unless: (1) if the person holds a license to teach, he provides instruction in a classroom for at least 1 day during each semester in the year before his employment or reemployment by the school district; or (2) if the person does not hold a license to teach, he personally observes a classroom for at least 1 day during each semester in the year before his employment or reemployment by the school district.] requires the board of trustees of each school district to adopt a program to engage administrators in annual classroom instruction and observation in a manner that is appropriate for the responsibilities, position and duties of the administrators.~~

Existing law requires each probationary teacher to be evaluated at least three times during each school year and a postprobationary teacher to be evaluated at least once each school year. (NRS 391.3125) Section 5 of this bill requires an administrator who is responsible for evaluating a teacher to personally observe that teacher in the classroom for not less than ~~[1 hour]~~ a cumulative total of 60 minutes during each evaluation period ~~[.]~~, with at least one observation consisting of at least 45 minutes. If a deficiency is discovered during the evaluation process, every effort must be made to assist the teacher to correct the deficiency. Existing law prescribes the circumstances under which an administrator may admonish an employee. (NRS 391.313) Section 6 of this bill requires that, if an administrator admonishes a teacher, an admonition must include a description of the deficiencies of the teacher and the actions that are necessary to correct those deficiencies.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~The board of trustees of ~~for~~ each school district shall ~~not employ or reemploy a person as an administrator unless the person has:~~ adopt a policy that sets forth procedures and conditions for a program to engage administrators in annual classroom instruction and observation in a manner that is appropriate for the responsibilities, position and duties of the administrators. The policy must require each administrator employed by the school district to:~~

(a) ~~If he holds a license to teach, ~~[provided]~~ provide instruction in a core academic subject in a classroom for at least 1 regularly scheduled full instructional day ~~during each semester,~~ in each school year; or~~

(b) ~~If he does not hold a license to teach, personally ~~observed~~ observe a classroom for at least 1 regularly scheduled full instructional day ~~during each semester,~~ in the year immediately preceding the date of his employment or the date of his reemployment, as applicable.] in each school year.~~

2. A school level administrator shall carry out the requirements of this section at the school to which he is assigned. A district level administrator

may choose a school within the school district at which he will carry out the requirements of this section.

3. An administrator who provides instruction pursuant to paragraph (a) of subsection 1 must be assigned as a substitute teacher for the full instructional day in which he carries out the requirements of this section.

4. As used in this section f, "administrator" :

(a) "Administrator" means each person employed by a school district to provide administrative service at fthe:

(a) District :

(1) The district level, including, without limitation, the superintendent of schools of the school district;

f (b) School;

(2) The school level, including, without limitation, a principal or vice principal; or

f(c) (3) Both the district level and the school level.

↪ The term does not include a teacher whose working time is primarily spent providing instruction in a classroom.

(b) "Core academic subject" means the core academic subjects designated pursuant to NRS 389.018.

Sec. 2. [NRS 391.100 is hereby amended to read as follows:

391.100—1. [The] Except as otherwise provided in section 1 of this act, the board of trustees of a school district may employ a superintendent of schools, teachers and all other necessary employees.

2. A person who is initially hired by the board of trustees of a school district on or after January 8, 2002, to teach in a program supported with money from Title I must possess the qualifications required by 20 U.S.C. § 6319(a). For the purposes of this subsection, a person is not "initially hired" if he has been employed as a teacher by another school district or charter school in this State without an interruption in employment before the date of hire by his current employer.

3. A person who is employed as a teacher, regardless of the date of hire, must possess, on or before July 1, 2006, the qualifications required by 20 U.S.C. § 6319(a) if he teaches:

(a) English, reading or language arts;

(b) Mathematics;

(c) Science;

(d) Foreign language;

(e) Civics or government;

(f) Economics;

(g) Geography;

(h) History; or

(i) The arts.

4. The board of trustees of a school district:

(a) May employ teacher aides and other auxiliary, nonprofessional personnel to assist licensed personnel in the instruction or supervision of

~~children, either in the classroom or at any other place in the school or on the grounds thereof. A person who is initially hired as a paraprofessional by a school district on or after January 8, 2002, to work in a program supported with Title I money must possess the qualifications required by 20 U.S.C. § 6319(e). A person who is employed as a paraprofessional by a school district, regardless of the date of hire, to work in a program supported with Title I money must possess, on or before January 8, 2006, the qualifications required by 20 U.S.C. § 6319(e). For the purposes of this paragraph, a person is not "initially hired" if he has been employed as a paraprofessional by another school district or charter school in this State without an interruption in employment before the date of hire by his current employer.~~

~~(b) Shall establish policies governing the duties and performance of teacher aides.~~

~~5. Each applicant for employment pursuant to this section, except a teacher or other person licensed by the Superintendent of Public Instruction, must, as a condition to employment, submit to the school district a full set of his fingerprints and written permission authorizing the school district to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant.~~

~~6. Except as otherwise provided in subsection 7, the board of trustees of a school district shall not require a licensed teacher or other person licensed by the Superintendent of Public Instruction pursuant to NRS 391.033 who has taken a leave of absence from employment authorized by the school district, including, without limitation:~~

- ~~(a) Sick leave;~~
- ~~(b) Sabbatical leave;~~
- ~~(c) Personal leave;~~
- ~~(d) Leave for attendance at a regular or special session of the Legislature of this State if the employee is a member thereof;~~
- ~~(e) Maternity leave; and~~
- ~~(f) Leave permitted by the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq.,~~

~~to submit a set of his fingerprints as a condition of return to or continued employment with the school district if the employee is in good standing when the employee began the leave.~~

~~7. [A] The board of trustees of a school district may ask the Superintendent of Public Instruction to require a person licensed by the Superintendent of Public Instruction pursuant to NRS 391.033 who has taken a leave of absence from employment authorized by the school district to submit a set of his fingerprints as a condition of return to or continued employment with the school district if the board of trustees has probable cause to believe that the person has committed a felony or an offense involving moral turpitude during the period of his leave of absence.~~

~~8.—The board of trustees of a school district may employ or appoint persons to serve as school police officers. If the board of trustees of a school district employs or appoints persons to serve as school police officers, the board of trustees shall employ a law enforcement officer to serve as the chief of school police who is supervised by the superintendent of schools of the school district. The chief of school police shall supervise each person appointed or employed by the board of trustees as a school police officer. In addition, persons who provide police services pursuant to subsection 9 or 10 shall be deemed school police officers.~~

~~9.—The board of trustees of a school district in a county that has a metropolitan police department created pursuant to chapter 280 of NRS may contract with the metropolitan police department for the provision and supervision of police services in the public schools within the jurisdiction of the metropolitan police department and on property therein that is owned by the school district. If a contract is entered into pursuant to this subsection, the contract must make provision for the transfer of each school police officer employed by the board of trustees to the metropolitan police department. If the board of trustees of a school district contracts with a metropolitan police department pursuant to this subsection, the board of trustees shall, if applicable, cooperate with appropriate local law enforcement agencies within the school district for the provision and supervision of police services in the public schools within the school district and on property owned by the school district, but outside the jurisdiction of the metropolitan police department.~~

~~10.—The board of trustees of a school district in a county that does not have a metropolitan police department created pursuant to chapter 280 of NRS may contract with the sheriff of that county for the provision of police services in the public schools within the school district and on property therein that is owned by the school district. } (Deleted by amendment.)~~

Sec. 3. ~~[NRS 391.110 is hereby amended to read as follows:~~

~~391.110 1.—[The] Except as otherwise provided in section 1 of this act, the board of trustees of a school district may:~~

~~(a) Employ any person whom the board of trustees determines is qualified to serve as the superintendent of schools of the school district. The Commission may require the superintendent of any school district to hold a master's degree.~~

~~(b) Define his powers and fix his duties.~~

~~(c) Fix his salary.~~

~~2.—If the board of trustees of a school district employs a person who is not licensed as an administrator to serve as the superintendent of schools, the board of trustees shall employ a person who is licensed as an administrator to oversee the academic programs of the public schools within the school district.~~

~~3.—A superintendent of schools may be employed for an initial term not to exceed 4 years. The term of any subsequent employment may be of any duration.~~

~~4. A superintendent of schools may be dismissed at any time for cause.~~

~~5. A superintendent of schools may administer oaths or affirmations relating to public schools.] (Deleted by amendment.)~~

Sec. 4. ~~[NRS 391.120 is hereby amended to read as follows:~~

~~391.120 1. [Boards] Except as otherwise provided in section 1 of this act, the board of trustees of [the school districts] a school district in this State may employ legally qualified teachers and other licensed personnel and may determine their salaries and the length of the term of school for which they are employed. These conditions and any other conditions agreed upon by the parties must be embodied in a written contract, or notice of reemployment, to be approved by the board of trustees and accepted and signed by the employee. A copy of the contract or notice of reemployment, properly written, must be delivered to each teacher or other licensed employee not later than the opening of the term of school.~~

~~2. A board of trustees may not employ teachers or other licensed personnel for any school year commencing after the expiration of the time for which any member of the board of trustees was elected or appointed.~~

~~3. It is unlawful for the board of trustees of any school district to employ any teacher who is not legally qualified to teach all the grades which the teacher is engaged to teach. The board of trustees shall suspend or terminate, as applicable, the employment of any teacher who fails to maintain a license issued pursuant to this chapter in force, if such a license is required for employment. Any such suspension or termination must comply with the requirements of NRS 391.301 to 391.309, inclusive.~~

~~4. On or before November 15 of each year, the school district shall submit to the Department, in a form prescribed by the Superintendent of Public Instruction, the following information for each licensed employee employed by the school district on October 1 of that year:~~

~~(a) The amount of salary of the employee; and~~

~~(b) The designated assignment, as that term is defined by the Department, [of Education,] of the employee.] (Deleted by amendment.)~~

Sec. 5. NRS 391.3125 is hereby amended to read as follows:

391.3125 1. It is the intent of the Legislature that a uniform system be developed for objective evaluation of teachers and other licensed personnel in each school district.

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must set forth a means according to which an employee's overall performance may be determined to be satisfactory or unsatisfactory. The policy may include an evaluation by the teacher, pupils, administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated on forms developed specifically for their respective specialties. A copy of the policy adopted by the board must be filed with the Department. The primary purpose of an evaluation is to provide a format for constructive

assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

3. A conference and a written evaluation for a probationary employee must be concluded ~~[no]~~ not later than:

- (a) December 1;
- (b) February 1; and
- (c) April 1,

→ of each school year of the probationary period, except that a probationary employee assigned to a school that operates all year must be evaluated at least three times during each 12 months of employment on a schedule determined by the board. *An administrator charged with the evaluation of a probationary teacher shall personally observe the performance of the teacher in the classroom for ~~at least 1 hour~~ not less than a cumulative total of 60 minutes during each evaluation period ~~if~~, with at least one observation during that 60-minute evaluation period consisting of at least 45 consecutive minutes.*

4. Whenever an administrator charged with the evaluation of a probationary employee believes the employee will not be reemployed for the second year of the probationary period or the school year following the probationary period, he shall bring the matter to the employee's attention in a written document which is separate from the evaluation ~~[no]~~ not later than ~~[February 15]~~ March 1 of the current school year. The notice must include the reasons for the potential decision not to reemploy or refer to the evaluation in which the reasons are stated. Such a notice is not required if the probationary employee has received a letter of admonition during the current school year.

5. Each postprobationary teacher must be evaluated at least once each year. *An administrator charged with the evaluation of a postprobationary teacher shall personally observe the performance of the teacher in the classroom for ~~at least 1 hour~~ not less than a cumulative total of 60 minutes during each evaluation period ~~if~~, with at least one observation during that 60-minute evaluation period consisting of at least 45 consecutive minutes.*

6. The evaluation of a probationary teacher or a postprobationary teacher must ~~[, if]~~ :

(a) If necessary, include recommendations for improvements in his performance. ~~[A reasonable effort must be made to assist the teacher to correct any deficiencies noted in the evaluation.]~~

(b) Include a description of the action that will be taken to assist the teacher in correcting any deficiencies reported in the evaluation.

(c) Include a statement by the administrator who evaluated the teacher indicating the amount of time that the administrator personally observed the performance of the teacher in the classroom.

7. The teacher must receive a copy of each evaluation not later than 15 days after the evaluation. A copy of the evaluation and the teacher's response must be permanently attached to the teacher's personnel file. *Upon*

the request of a teacher, a reasonable effort must be made to assist the teacher to correct those deficiencies reported in the evaluation of the teacher for which the teacher requests assistance.

Sec. 6. NRS 391.313 is hereby amended to read as follows:

391.313 1. Whenever an administrator charged with supervision of a licensed employee believes it is necessary to admonish the employee for a reason that he believes may lead to demotion ~~[-]~~ or dismissal or *may* cause the employee not to be reemployed under the provisions of NRS 391.312, he shall:

(a) Except as otherwise provided in subsection ~~[2.]~~ 3, bring the matter to the attention of the employee involved, in writing, stating the reasons for the admonition and that it may lead to his demotion, dismissal or a refusal to reemploy him, and make a reasonable effort to assist the employee to correct whatever appears to be the cause for his potential demotion, dismissal or a potential recommendation not to reemploy him; and

(b) Except as otherwise provided in NRS 391.314, allow reasonable time for improvement, which must not exceed 3 months for the first admonition.

➔ *The admonition must include a description of the deficiencies of the teacher and the action that is necessary to correct those deficiencies.*

2. An admonition issued to a licensed employee who, within the time granted for improvement, has met the standards set for him by the administrator who issued the admonition must be removed from the records of the employee together with all notations and indications of its having been issued. The admonition must be removed from the records of the employee not later than 3 years after it is issued.

~~[2.]~~ 3. An administrator need not admonish an employee pursuant to paragraph (a) of subsection 1 if his employment will be terminated pursuant to NRS 391.3197. If by ~~February 15]~~ *March 1* of the first or second year of his probationary period a probationary employee does not receive a written notice pursuant to subsection 4 of NRS 391.3125 of a potential decision not to reemploy him, he must receive an admonition before any such decision is made.

~~[3.]~~ 4. A licensed employee is subject to immediate dismissal or a refusal to reemploy according to the procedures provided in NRS 391.311 to 391.3197, inclusive, without the admonition required by this section, on grounds contained in paragraphs (b), (f), (g), (h) and (p) of subsection 1 of NRS 391.312.

Sec. 7. NRS 391.3197 is hereby amended to read as follows:

391.3197 1. A probationary employee is employed on a contract basis for two 1-year periods and has no right to employment after either of the two probationary contract years.

2. The board shall notify each probationary employee in writing on or before May 1 of the first and second school years of his probationary period, as appropriate, whether he is to be reemployed for the second year of the probationary period or for the next school year as a postprobationary

employee. The employee must advise the board in writing on or before May 10 of the first or second year of his probationary period, as appropriate, of his acceptance of reemployment. If a probationary employee is assigned to a school that operates all year, the board shall notify him in writing, in both the first and second years of his probationary period, no later than 45 days before his last day of work for the year under his contract whether he is to be reemployed for the second year of the probationary period or for the next school year as a postprobationary employee. He must advise the board in writing within 10 days after the date of notification of his acceptance or rejection of reemployment for another year. Failure to advise the board of his acceptance of reemployment constitutes rejection of the contract.

3. A probationary employee who completes his 2-year probationary period and receives a notice of reemployment from the school district in the second year of his probationary period is entitled to be a postprobationary employee in the ensuing year of employment.

4. ~~[A] If a probationary employee [who receives an unsatisfactory evaluation]~~ receives notice pursuant to subsection 4 of NRS 391.3125 not later than March 1 of a potential decision not to reemploy him, the employee may request a supplemental evaluation by another administrator in the school district selected by him and the superintendent. If a school district has five or fewer administrators, the supplemental evaluator may be an administrator from another school district in ~~the~~ this State. If a probationary employee has received during the first school year of his probationary period three evaluations which state that the employee's overall performance has been satisfactory, the superintendent of schools of the school district or his designee shall waive the second year of the employee's probationary period by expressly providing in writing on the final evaluation of the employee for the first probationary year that the second year of his probationary period is waived. Such an employee is entitled to be a postprobationary employee in the ensuing year of employment.

5. If a probationary employee is notified that he will not be reemployed for the second year of his probationary period or the ensuing school year, his employment ends on the last day of the current school year. The notice that he will not be reemployed must include a statement of the reasons for that decision.

6. A new employee or a postprobationary teacher who is employed as an administrator shall be deemed to be a probationary employee for the purposes of this section and must serve a 2-year probationary period as an administrator in accordance with the provisions of this section. If the administrator does not receive an unsatisfactory evaluation during the first year of probation, the superintendent or his designee shall waive the second year of the administrator's probationary period. Such an administrator is entitled to be a postprobationary employee in the ensuing year of employment. If:

(a) A postprobationary teacher who is an administrator is not reemployed as an administrator after either year of his probationary period; and

(b) There is a position as a teacher available for the ensuing school year in the school district in which the person is employed,

➡ the board of trustees of the school district shall, on or before May 1, offer the person a contract as a teacher for the ensuing school year. The person may accept the contract in writing on or before May 10. If the person fails to accept the contract as a teacher, the person shall be deemed to have rejected the offer of a contract as a teacher.

7. An administrator who has completed his probationary period pursuant to subsection 6 and is thereafter promoted to the position of principal must serve an additional probationary period of 1 year in the position of principal. If the administrator serving the additional probationary period is not reemployed as a principal after the expiration of the additional probationary period, the board of trustees of the school district in which the person is employed shall, on or before May 1, offer the person a contract for the ensuing school year for the administrative position in which the person attained postprobationary status. The person may accept the contract in writing on or before May 10. If the person fails to accept such a contract, the person shall be deemed to have rejected the offer of employment.

8. Before dismissal, the probationary employee is entitled to a hearing before a hearing officer which affords due process as set out in NRS 391.311 to 391.3196, inclusive.

Sec. 8. On or before February 1, 2008, the board of trustees of each school district shall submit a copy of the program to engage administrators in annual classroom instruction and observation adopted by the school district pursuant to section 1 of this act to the Legislative Committee on Education and to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature.

~~[Sec. 8.]~~ Sec. 9. This act becomes effective on July 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 381.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 565.

"SUMMARY—Authorizes the Chairman of the State Gaming Control Board to allow ~~[the partial abatement]~~ abatements of certain license fees paid by certain gaming licensees. (BDR 41-1130)"

"AN ACT relating to gaming; authorizing the Chairman of the State Gaming Control Board to allow ~~[the partial abatement]~~ abatements of certain

license fees paid by certain gaming licensees; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, gaming licensees are required to pay license fees to the Nevada Gaming Commission based upon their gross revenue. (NRS 463.370) This bill authorizes the Chairman of the State Gaming Control Board to allow ~~the partial abatement~~ abatements of those license fees if a licensee seeks and obtains certification as a "reinvestment licensee." To obtain such certification, the licensee must meet certain criteria, such as holding a nonrestricted license, not exceeding the maximum gross ~~gaming~~ revenue for a fiscal year, offering full-time employees health care coverage and either: (1) maintaining a certain number of full-time employees at an establishment for which ~~a partial abatement is~~ abatements of license fees are sought ~~and~~ and paying those full-time employees certain wages ~~and offering those full time employees health care coverage~~ ; or (2) having obtained a reduction in taxable value. Any ~~partial abatement~~ abatements of license fees that ~~is ordered~~ are authorized must be expended for purposes related to reinvestment in the establishment, such as enhancements to gaming devices, making capital improvements to the establishment or defraying the costs of compliance with regulatory requirements. A reinvestment licensee may begin accruing credits for abatements of license fees on July 1, 2007, and may begin taking such credits against license fees imposed on gross revenue received after July 1, 2009.

This bill becomes effective on July 1, 2007, and 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 463 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A licensee that is eligible for certification as a reinvestment licensee pursuant to subsection 2 may ~~apply~~ file a request, on a form provided by the Board, ~~to~~ with the Chairman of the Board for certification as a reinvestment licensee for one or more establishments operated by the licensee. If ~~an application~~ a request for certification as a reinvestment licensee is approved, the Chairman or his designee may ~~order a partial abatement~~ authorize abatements of the license fees required to be paid pursuant to NRS 463.370 in an amount that does not exceed \$150,000 for each establishment for which ~~a partial abatement is~~ abatements of license fees are sought that is operated by the ~~certified~~ reinvestment licensee during each fiscal year.

2. To be eligible for certification as a reinvestment licensee, a licensee must provide evidence ~~that the licensee meets all the following requirements~~ of the following:

(a) The licensee must hold a nonrestricted license for the operation of 16 or more slot machines or for the operation of any number of slot machines

together with any other game, gaming device, race book or sports pool at one establishment.

(b) The licensee must have had gross ~~gaming~~ revenue of less than \$50,000,000 in the fiscal year immediately preceding the year in which ~~the partial abatement~~ abatements of license fees are proposed to be taken pursuant to this section. ~~is proposed to be taken.~~

(c) The licensee must provide health insurance coverage or a health benefit plan for all full-time employees ~~that includes~~ pursuant to subsection 1 of NRS 363B.115, and such health insurance coverage or such a health benefit plan must include an option for coverage for dependents of the employees.

(d) The licensee must ~~have~~ either:

(1) Have 15 or more full-time employees employed on the premises of each establishment for which ~~a partial abatement is~~ abatements of license fees are sought, as evidenced by the report filed by the licensee pursuant to NRS 612.535, and the average hourly wage earned by the full-time employees at the establishment must be at least 150 percent of the state minimum wage. ~~f~~

~~(e) The licensee must have applied for~~ or

(2) Have obtained, pursuant to the provisions of NRS 361.227 and 361.2285, a reduction of the taxable value of the real and personal property ~~comprising~~ of the establishment for which ~~a partial abatement is~~ abatements of license fees are sought. ~~pursuant to the provisions of NRS 361.227 and 361.2285, and the licensee must have obtained a determination that it is entitled to a reduction in taxable value.~~

3. The Chairman or his designee may approve ~~an application~~ a request for certification as a reinvestment licensee if the Chairman or his designee finds that the ~~applicant~~ licensee satisfies the criteria set forth in subsection 2.

4. If the Chairman or his designee approves ~~an application~~ a request for certification as a reinvestment licensee and ~~orders a partial abatement~~ authorizes abatements of the license fees required to be paid pursuant to NRS 463.370, not later than 120 days after completion of the fiscal year in which ~~the partial abatement is~~ abatements of license fees are taken, ~~the~~ the reinvestment licensee shall certify to the Board that ~~any partial abatement~~ abatements of license fees taken ~~has~~ have been applied on a dollar-for-dollar basis against actual expenses incurred or reinvestments in its gaming business made by the ~~certified~~ reinvestment licensee in the fiscal year for which the ~~partial abatement was~~ abatements of license fees were authorized, for any of the following:

(a) Expenditures made by the ~~certified~~ reinvestment licensee for the purchase or lease of gaming devices or associated equipment, including, without limitation, software and enhancements to such gaming devices and associated equipment used at the gaming establishment;

(b) Expenditures made by the ~~fe certified~~ reinvestment licensee for capital improvements to the establishment for the purpose of updating, upgrading or expanding its gaming facility or adding or enhancing public safety and security systems and related improvements to the premises; or

(c) Any expenses incurred by the ~~fe certified~~ reinvestment licensee to comply with any requirements imposed on the ~~fe certified~~ reinvestment licensee pursuant to regulations or technical standards adopted by the Commission.

5. If a ~~fe certified~~ reinvestment licensee:

(a) Ceases its gaming operations before the expiration of any period for which ~~fe a partial abatement has~~ abatements of license fees have been taken; or

(b) Fails to certify that expenses authorized to be taken against ~~fe a partial abatement~~ abatements of license fees have been taken or, after certifying as to such expenses or reinvestments, fails to produce reasonable and adequate records as to such expenditures upon audit by the Board,

→ the ~~fe certified~~ reinvestment licensee shall repay to the Commission the amount of any ~~fe a partial abatement~~ abatements of license fees taken plus interest on the amount due to the Commission at the rate most recently established pursuant to NRS 99.040 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 ~~fe a partial abatement~~ abatements of license fees not been authorized until the date of payment of the fee.

6. A licensee who has ~~fe applied for~~ requested certification or been certified as a reinvestment licensee pursuant to this section and who is aggrieved by a final decision of the Chairman or his designee may, within 60 days after it becomes final, petition for judicial review in the manner provided by NRS 463.315 to 463.318, inclusive.

7. Credits for abatements of license fees based upon expenditures authorized pursuant to subsection 4 may be accrued beginning on July 1, 2007, and a reinvestment licensee may take such credits against license fees imposed on the gross revenue of the reinvestment licensee received after July 1, 2009.

8. The Commission may adopt such regulations as the Commission determines to be necessary to carry out the provisions of this section.

Sec. 2. NRS 463.370 is hereby amended to read as follows:

463.370 1. Except as otherwise provided in NRS 463.373 ~~fe~~ and section 1 of this act, the Commission shall charge and collect from each licensee a license fee based upon all the gross revenue of the licensee as follows:

(a) Three and one-half percent of all the gross revenue of the licensee which does not exceed \$50,000 per calendar month;

(b) Four and one-half percent of all the gross revenue of the licensee which exceeds \$50,000 per calendar month and does not exceed \$134,000 per calendar month; and

(c) Six and three-quarters percent of all the gross revenue of the licensee which exceeds \$134,000 per calendar month.

2. Unless the licensee has been operating for less than a full calendar month, the Commission shall charge and collect the fee prescribed in subsection 1, based upon the gross revenue for the preceding calendar month, on or before the 24th day of the following month. Except for the fee based on the first full month of operation, the fee is an estimated payment of the license fee for the third month following the month whose gross revenue is used as its basis.

3. When a licensee has been operating for less than a full calendar month, the Commission shall charge and collect the fee prescribed in subsection 1, based on the gross revenue received during that month, on or before the 24th day of the following calendar month of operation. After the first full calendar month of operation, the Commission shall charge and collect the fee based on the gross revenue received during that month, on or before the 24th day of the following calendar month. The payment of the fee due for the first full calendar month of operation must be accompanied by the payment of a fee equal to three times the fee for the first full calendar month. This additional amount is an estimated payment of the license fees for the next 3 calendar months. Thereafter, each license fee must be paid in the manner described in subsection 2. Any deposit held by the Commission on July 1, 1969, must be treated as an advance estimated payment.

4. All revenue received from any game or gaming device which is operated on the premises of a licensee, regardless of whether any portion of the revenue is shared with any other person, must be attributed to the licensee for the purposes of this section and counted as part of the gross revenue of the licensee. Any other person, including, without limitation, an operator of an inter-casino linked system, who is authorized to receive a share of the revenue from any game, gaming device or inter-casino linked system that is operated on the premises of a licensee is liable to the licensee for that person's proportionate share of the license fees paid by the licensee pursuant to this section and shall remit or credit the full proportionate share to the licensee on or before the 24th day of each calendar month. The proportionate share of an operator of an inter-casino linked system must be based on all compensation and other consideration received by the operator of the inter-casino linked system, including, without limitation, amounts that accrue to the meter of the primary progressive jackpot of the inter-casino linked system and amounts that fund the reserves of such a jackpot, subject to all appropriate adjustments for deductions, credits, offsets and exclusions that the licensee is entitled to take or receive pursuant to the provisions of this chapter. A licensee is not liable to any other person authorized to receive a share of the licensee's revenue from any game, gaming device or inter-casino linked system that is operated on the premises of the licensee for that person's proportionate share of the license fees to be remitted or credited to the licensee by that person pursuant to this section.

5. An operator of an inter-casino linked system shall not enter into any agreement or arrangement with a licensee that provides for the operator of the inter-casino linked system to be liable to the licensee for less than its full proportionate share of the license fees paid by the licensee pursuant to this section, whether accomplished through a rebate, refund, charge-back or otherwise.

6. Any person required to pay a fee pursuant to this section shall file with the Commission, on or before the 24th day of each calendar month, a report showing the amount of all gross revenue received during the preceding calendar month. Each report must be accompanied by:

(a) The fee due based on the revenue of the month covered by the report; and

(b) An adjustment for the difference between the estimated fee previously paid for the month covered by the report, if any, and the fee due for the actual gross revenue earned in that month. If the adjustment is less than zero, a credit must be applied to the estimated fee due with that report.

7. If the amount of license fees required to be reported and paid pursuant to this section is later determined to be greater or less than the amount actually reported and paid, the Commission shall:

(a) Charge and collect the additional license fees determined to be due, with interest thereon until paid; or

(b) Refund any overpayment to the person entitled thereto pursuant to this chapter, with interest thereon.

↪ Interest pursuant to paragraph (a) must be computed at the rate prescribed in NRS 17.130 from the first day of the first month following the due date of the additional license fees until paid. Interest pursuant to paragraph (b) must be computed at one-half the rate prescribed in NRS 17.130 from the first day of the first month following the date of overpayment until paid.

8. Failure to pay the fees provided for in this section shall be deemed a surrender of the license at the expiration of the period for which the estimated payment of fees has been made, as established in subsection 2.

9. Except as otherwise provided in NRS 463.386, the amount of the fee prescribed in subsection 1 must not be prorated.

10. Except as otherwise provided in NRS 463.386, if a licensee ceases operation, the Commission shall:

(a) Charge and collect the additional license fees determined to be due with interest computed pursuant to paragraph (a) of subsection 7; or

(b) Refund any overpayment to the licensee with interest computed pursuant to paragraph (b) of subsection 7,

↪ based upon the gross revenue of the licensee during the last 3 months immediately preceding the cessation of operation, or portions of those last 3 months.

11. If in any month, the amount of gross revenue is less than zero, the licensee may offset the loss against gross revenue in succeeding months until the loss has been fully offset.

12. If in any month, the amount of the license fee due is less than zero, the licensee is entitled to receive a credit against any license fees due in succeeding months until the credit has been fully offset.

Sec. 3. This act becomes effective on July 1, 2007 ~~to~~, and expires by limitation on June 30, 2011.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 385.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 489.

"SUMMARY—Revises certain provisions relating to voter identification. (BDR 24-447)"

"AN ACT relating to elections; requiring photographic identification for voting; requiring county clerks to issue voter identification cards under certain circumstances; requiring persons applying for absent ballots to provide certain information to county and city clerks; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, if a person's name appears in the election board register or if he provides an affirmation, he is entitled to vote and must sign his name in the register when he applies to vote at a polling place. His signature must be compared with the signature on his original application to register to vote or on one of the specified forms of identification. (NRS 293.277, 293C.270)

This bill requires a person wishing to vote at a polling place to present ~~current and valid~~ photographic identification. ~~A "current and valid photographic"~~ "Photographic" identification is a driver's license or identification card issued by the Department of Motor Vehicles, an identification card issued by a branch of the Armed Forces of the United States, a United States passport, an identification card issued by an Indian tribe or a voter identification card issued by a county clerk. A voter identification card must be issued to certain registered voters at no cost.

Under existing law, a registered voter who provides sufficient written notice to a city or county clerk may vote an absent ballot. (NRS 293.313, 293C.310) This bill requires the "sufficient written notice" to include personal identification of the registered voter, a statement that the requester is a registered voter, a statement identifying the election for which the absent ballot is requested, the political affiliation of the registered voter, the address to which the absent ballot should be mailed, and other identifying information or documents of the registered voter.

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. ~~["Current and valid photographic"]~~ "Photographic identification" means one of the following forms of identification if it bears a recognizable photograph of the person presenting it as identification : ~~and which is not invalid or expired.~~

1. A driver's license or identification card issued by the Department of Motor Vehicles.

2. An identification card issued by a branch of the Armed Forces of the United States.

3. A United States passport.

4. An identification card issued by an Indian tribe.

5. A voter identification card issued pursuant to section 3 of this act.

Sec. 3. The Secretary of State shall ensure that each county clerk provides at least one place in the county at which the county clerk accepts applications for and issues voter identification cards to persons who are registered to vote in this State and who do not possess any form of ~~current and valid~~ photographic identification described in subsections 1 to 4, inclusive, of section 2 of this act. A fee must not be charged for a voter identification card.

Sec. 4. 1. An application for a voter identification card must be in the form prescribed by the Secretary of State.

2. An applicant for a voter identification card must present to the county clerk:

(a) Documentation showing the person's date of birth;

(b) Evidence that the person is registered to vote in this State; and

(c) Documentation showing the person's name and address.

Sec. 5. A voter identification card issued pursuant to section 3 of this act:

1. Must include, without limitation:

(a) The person's name, address, date of birth, sex, height, weight, eye color and photograph.

(b) The date that the voter identification card was issued.

(c) The name of the county in which the voter identification card was issued.

(d) Any other information required by the Secretary of State.

2. Is valid so long as the person is registered to vote and resides at the address stated on his voter identification card.

Sec. 6. The Secretary of State shall:

1. Provide to each county clerk the necessary equipment, forms, supplies and training for the production of voter identification cards.

2. Adopt regulations necessary for the issuance of voter identification cards.

Sec. 7. NRS 293.010 is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 8. NRS 293.2725 is hereby amended to read as follows:

293.2725 1. Except as otherwise provided in subsection 2, in NRS 293.3081 and 293.3083 and in federal law, a person who registers by mail to vote in this State and who has not previously voted in an election for federal office in this State:

(a) May vote at a polling place only if the person presents to the election board officer at the polling place ~~for~~:

~~(1) A ~~current and valid~~ ~~photo~~ photographic identification of the person; ~~for~~~~

~~(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including, without limitation, a check, which indicates the name and address of the person; ~~and~~~~

(b) May vote by mail only if the person provides to the county or city clerk ~~for~~:

~~(1) A a copy of ~~a current and valid~~ ~~photo~~ photographic identification of the person. ~~for~~ or~~

~~(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including, without limitation, a check, which indicates the name and address of the person.~~

2. The provisions of this section do not apply to a person who:

(a) Registers to vote by mail and submits with his application to register to vote ~~for~~:

~~(1) A a copy of ~~a current and valid~~ ~~photo~~ photographic identification; ~~for~~~~

~~(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including, without limitation, a check, which indicates the name and address of the person;~~

~~(b) Registers to vote by mail and submits with his application to register to vote a driver's license number or at least the last four digits of his social security number, if a state or local election official has matched that information with an existing identification record bearing the same number, name and date of birth as provided by the person in his application;~~

~~(c) (b) Is entitled to vote an absent ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq.;~~

~~(d) (c) Is provided the right to vote otherwise than in person under the Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C. §§ 1973ee et seq.; or~~

~~(e) (d) Is entitled to vote otherwise than in person under any other federal law.~~

Sec. 9. NRS 293.277 is hereby amended to read as follows:

293.277 ~~[1.]~~ Except as otherwise provided in NRS 293.541, if a person's name appears in the election board register ~~[or if]~~ and he provides ~~[an affirmation pursuant to NRS 293.525.]~~ ~~current and valid~~ photographic identification, he is entitled to vote and must sign his name in the election board register when he applies to vote. His signature must be compared by an election board officer with the signature or a facsimile thereof on his original application to register to vote or ~~[one of the forms of identification listed in subsection 2.]~~

~~2. Except as otherwise provided in NRS 293.2725, the forms of identification which may be used individually to identify a voter at the polling place are:~~

- ~~(a) The card issued to the voter at the time he registered to vote;~~
- ~~(b) A driver's license;~~
- ~~(c) An identification card issued by the Department of Motor Vehicles;~~
- ~~(d) A military identification card; or~~
- ~~(e) Any other form of identification issued by a governmental agency which contains the voter's signature and physical description or picture.] the person's~~ ~~current and valid~~ photographic identification.

Sec. 10. NRS 293.3081 is hereby amended to read as follows:

293.3081 A person at a polling place may cast a provisional ballot in an election to vote for a candidate for federal office if the person complies with the applicable provisions of NRS 293.3082 and:

1. Declares that he has registered to vote and is eligible to vote at that election in that jurisdiction, but his name does not appear on a voter registration list as a voter eligible to vote in that election in that jurisdiction, ~~[or]~~ an election official asserts that the person is not eligible to vote in that election in that jurisdiction ~~[;]~~ or he has failed to provide the ~~current and valid~~ photographic identification required pursuant to NRS 293.277;

2. Applies by mail, on or after January 1, 2003, to register to vote and has not previously voted in an election for federal office in this State and fails to provide the ~~current and valid~~ photographic identification required pursuant to paragraph (a) of subsection 1 of NRS 293.2725 to the election board officer at the polling place; or

3. Declares that he is entitled to vote after the polling place would normally close as a result of a court order or other order extending the time established for the closing of polls pursuant to a law of this State in effect 10 days before the date of the election.

Sec. 11. NRS 293.3085 is hereby amended to read as follows:

293.3085 1. Following each election, a canvass of the provisional ballots cast in the election must be conducted pursuant to NRS 293.387 and, if appropriate, pursuant to NRS 293C.387.

2. The county and city clerk shall not:

(a) Include any provisional ballot in the unofficial results reported on election night; or

(b) Open any envelope containing a provisional ballot before 8 a.m. on the Wednesday following election day.

3. Except as otherwise provided in subsection 4, a provisional ballot must be counted if:

(a) The county or city clerk determines that the person who cast the provisional ballot was registered to vote in the election, eligible to vote in the election and issued the appropriate ballot for the address at which he resides;

(b) A voter who failed to provide required ~~current and valid~~ *photographic* identification at the polling place or with his mailed ballot provides the required ~~current and valid~~ *photographic* identification to the county or city clerk not later than 5 p.m. on the Friday following election day; or

(c) A court order has not been issued by 5 p.m. on the Friday following election day directing that provisional ballots cast pursuant to subsection 3 of NRS 293.3081 not be counted, and the provisional ballot was cast pursuant to subsection 3 of NRS 293.3081.

4. A provisional ballot must not be counted if the county or city clerk determines that the person who cast the provisional ballot cast the wrong ballot for the address at which he resides.

Sec. 12. NRS 293.313 is hereby amended to read as follows:

293.313 1. Except as otherwise provided in NRS 293.272 and 293.502, a registered voter who provides sufficient written notice to the county clerk may vote an absent ballot as provided in this chapter.

2. A registered voter who:

(a) Is at least 65 years of age; or

(b) Has a physical disability or condition which substantially impairs his ability to go to the polling place,

↪ may request an absent ballot for all elections held during the year he requests an absent ballot.

3. As used in this section, "sufficient written notice" means a:

(a) Written request for an absent ballot *which complies with the requirements of subsection 4 and* which is signed by the registered voter and returned to the county clerk in person or by mail or facsimile machine;

(b) Form prescribed by the Secretary of State *which complies with the requirements of subsection 4 and* which is completed and signed by the registered voter and returned to the county clerk in person or by mail or facsimile machine; or

(c) Form provided by the Federal Government.

4. *A written request or a form returned to the county clerk pursuant to paragraph (a) or (b) of subsection 3 must include:*

(a) The name and address of the registered voter requesting the absent ballot;

(b) The date of birth of the registered voter;

(c) A statement that the person requesting the absent ballot is a registered voter;

(d) A statement identifying the election for which the absent ballot is requested;

(e) If the election identified pursuant to paragraph (d) is a primary election, the political affiliation of the registered voter;

(f) The address to which the registered voter desires the absent ballot to be mailed, if that address is different than the address provided pursuant to paragraph (a); and

(g) One of the following:

(1) The driver's license number of the registered voter;

(2) The last four digits of the social security number of the registered voter; or

(3) One of the following that indicates the name and address of the registered voter:

(I) A copy of ~~a current and valid~~ photographic identification;

(II) A copy of ~~a current and valid~~ military identification; or

(III) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check but other than a voter registration card issued pursuant to subsection 6 of NRS 293.517.

5. A county clerk shall consider a request from a voter who has given sufficient written notice on a form provided by the Federal Government as a request for an absent ballot for the two primary and general elections immediately following the date on which the county clerk received the request.

~~{5-}~~ 6. It is unlawful for a person fraudulently to request an absent ballot in the name of another person or to induce or coerce another person fraudulently to request an absent ballot in the name of another person. A person who violates this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 13. NRS 293.330 is hereby amended to read as follows:

293.330 1. Except as otherwise provided in NRS 293.3157 and subsection 2 of NRS 293.323 and any regulations adopted pursuant thereto, when an absent voter receives his ballot, he must mark and fold it ~~{-}~~ if it is a paper ballot, or punch it ~~{-}~~ if the ballot is voted by punching a card, in accordance with the instructions, deposit it in the return envelope, seal the envelope, affix his signature on the back of the envelope in the space provided therefor and mail the return envelope.

2. Except as otherwise provided in subsection 3, if an absent voter who has requested a ballot by mail applies to vote the ballot in person at:

(a) The office of the county clerk, he must mark or punch the ballot, seal it in the return envelope and affix his signature in the same manner as provided in subsection 1, and deliver the envelope to the clerk.

(b) A polling place, including, without limitation, a polling place for early voting, he must surrender the absent ballot and provide ~~{satisfactory}~~ ~~{current and valid}~~ photographic identification before being issued a ballot

to vote at the polling place. A person who receives a surrendered absent ballot shall mark it "Cancelled."

3. If an absent voter who has requested a ballot by mail applies to vote in person at the office of the county clerk or a polling place, including, without limitation, a polling place for early voting, and the voter does not have the absent ballot to deliver or surrender, the voter must be issued a ballot to vote if the voter:

- (a) Provides ~~[satisfactory] ~~current and valid~~~~ photographic identification;
- (b) Is a registered voter who is otherwise entitled to vote; and
- (c) Signs an affirmation under penalty of perjury on a form prepared by the Secretary of State declaring that the voter has not voted during the election.

4. Except as otherwise provided in NRS 293.316, it is unlawful for any person to return an absent ballot other than the voter who requested the absent ballot or, at the request of the voter, a member of his family. A person who returns an absent ballot and who is a member of the family of the voter who requested the absent ballot shall, under penalty of perjury, indicate on a form prescribed by the county clerk that he is a member of the family of the voter who requested the absent ballot and that the voter requested that he return the absent ballot. A person who violates the provisions of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 14. NRS 293.3585 is hereby amended to read as follows:

293.3585 1. Upon the appearance of a person to cast a ballot for early voting, the deputy clerk for early voting shall:

- (a) Determine that the person is a registered voter in the county;
- (b) Instruct the voter to sign the roster for early voting; ~~and~~
- (c) *Verify the person has ~~current and valid~~ photographic identification;*
and

(d) Verify the signature of the voter against that contained on the original application to register to vote or a facsimile thereof, the card issued to the voter at the time of registration or ~~some other piece of official~~ the person's ~~current and valid~~ photographic identification.

2. The county clerk shall prescribe a procedure, approved by the Secretary of State, to determine that the voter has not already voted pursuant to this section.

3. The roster for early voting must contain:

- (a) The voter's name, the address where he is registered to vote, his voter identification number and a place for the voter's signature;
- (b) The voter's precinct or voting district number; and
- (c) The date of voting early in person.

4. When a voter is entitled to cast his ballot and has identified himself to the satisfaction of the deputy clerk for early voting, he is entitled to receive the appropriate ballot or ballots, but only for his own use at the polling place for early voting.

5. If the ballot is voted by punching a card, the deputy clerk for early voting shall:

(a) Ensure that the voter's precinct or voting district and the form of ballot are indicated on the card;

(b) Direct the voter to the appropriate mechanical recording device for his form of ballot; and

(c) Allow the voter to place his voted ballot in the ballot box.

6. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the deputy clerk for early voting shall:

(a) Prepare the mechanical recording device for the voter;

(b) Ensure that the voter's precinct or voting district and the form of ballot are indicated on each part of the voting receipt;

(c) Retain one part of the voting receipt for the election board and return the other part of the voting receipt to the voter; and

(d) Allow the voter to cast his vote.

7. A voter applying to vote early by personal appearance may be challenged pursuant to NRS 293.303.

Sec. 15. NRS 293.541 is hereby amended to read as follows:

293.541 1. The county clerk shall cancel the registration of a voter ~~if~~ if:

(a) After consultation with the district attorney, the district attorney determines that there is probable cause to believe that information in the registration concerning the identity or residence of the voter is fraudulent;

(b) The county clerk provides a notice as required pursuant to subsection 2 or executes an affidavit of cancellation pursuant to subsection 3; and

(c) The voter fails to present satisfactory proof of his identity and residence pursuant to subsection 2, 4 or 5.

2. Except as otherwise provided in subsection 3, the county clerk shall notify the voter by registered or certified mail, return receipt requested, of a determination made pursuant to subsection 1. The notice must set forth the grounds for cancellation. Unless the voter, within 15 days after the return receipt has been filed in the office of the county clerk, presents satisfactory proof of his identity and residence to the county clerk, the county clerk shall cancel his registration.

3. If insufficient time exists before a pending election to provide the notice required by subsection 2, the county clerk shall execute an affidavit of cancellation and file the affidavit of cancellation with the registrar of voters' register and:

(a) In counties where records of registration are not kept by computer, the county clerk shall attach a copy of the affidavit of cancellation in the election board register.

(b) In counties where records of registration are kept by computer, the county clerk shall have the affidavit of cancellation printed on the computer entry for the registration and add a copy of it to the election board register.

4. If a voter appears to vote at the election next following the date that an affidavit of cancellation was executed for the voter pursuant to this section, the voter must be allowed to vote only if he furnishes ~~[-~~

~~(a) Official identification which contains a photograph of himself, including, without limitation, a driver's license or other official document; and~~

~~(b) Satisfactory identification that contains proof of the address at which he actually resides and that address is consistent with the address listed on the election board register.] *current and valid* photographic identification.~~

5. If a determination is made pursuant to subsection 1 concerning information in the registration to vote of a voter and an absent ballot or a ballot voted by a voter who resides in a mailing precinct is received from the voter, the ballot must be kept separate from other ballots and must not be counted unless the voter presents satisfactory proof to the county clerk of his identity and residence before such ballots are counted on election day.

Sec. 16. NRS 293C.270 is hereby amended to read as follows:

293C.270 ~~[-]~~ If a person's name appears in the election board register ~~for if~~ and he provides ~~[an affirmation pursuant to NRS 293C.525,]~~ *current and valid* photographic identification, he is entitled to vote and must sign his name in the election board register when he applies to vote. His signature must be compared by an election board officer with the signature or a facsimile thereof on his original application to register to vote or ~~[one of the forms of identification listed in subsection 2.]~~

~~2. The forms of identification that may be used to identify a voter at the polling place are:~~

~~(a) The card issued to the voter at the time he registered to vote;~~
~~(b) A driver's license;~~
~~(c) An identification card issued by the Department of Motor Vehicles;~~
~~(d) A military identification card; or~~
~~(e) Any other form of identification issued by a governmental agency that contains the voter's signature and physical description or picture.] the person's *current and valid* photographic identification.~~

Sec. 17. NRS 293C.310 is hereby amended to read as follows:

293C.310 1. Except as otherwise provided in NRS 293.502 and 293C.265, a registered voter who provides sufficient written notice to the city clerk may vote an absent ballot as provided in this chapter.

2. A registered voter who:

(a) Is at least 65 years of age; or
 (b) Has a physical disability or condition that substantially impairs his ability to go to the polling place,
 ➤ may request an absent ballot for all elections held during the year he requests an absent ballot.

3. As used in this section, "sufficient written notice" means a:

(a) Written request for an absent ballot ~~{that}~~ *which complies with the requirements of subsection 4 and which* is signed by the registered voter and returned to the city clerk in person or by mail or facsimile machine;

(b) Form prescribed by the Secretary of State ~~{that}~~ *which complies with the requirements of subsection 4 and which* is completed and signed by the registered voter and returned to the city clerk in person or by mail or facsimile machine; or

(c) Form provided by the Federal Government.

4. *A written request or a form returned to the city clerk pursuant to paragraph (a) or (b) of subsection 3 must include:*

(a) *The name and address of the registered voter requesting the absent ballot;*

(b) *The date of birth of the registered voter;*

(c) *A statement that the person requesting the absent ballot is a registered voter;*

(d) *A statement identifying the election for which the absent ballot is requested;*

(e) *If the election identified pursuant to paragraph (d) is a primary election, the political affiliation of the registered voter;*

(f) *The address to which the registered voter desires the absent ballot to be mailed, if that address is different than the address provided pursuant to paragraph (a); and*

(g) *One of the following:*

(1) *The driver's license number of the registered voter;*

(2) *The last four digits of the social security number of the registered voter; or*

(3) *One of the following that indicates the name and address of the registered voter:*

(I) *A copy of ~~a current and valid~~ photographic identification;*

(II) *A copy of ~~a current and valid~~ military identification; or*

(III) *A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check but other than a voter registration card issued pursuant to subsection 6 of NRS 293.517.*

5. A city clerk shall consider a request from a voter who has given sufficient written notice on a form provided by the Federal Government as:

(a) A request for the primary city election and the general city election unless otherwise specified in the request; and

(b) A request for an absent ballot for the two primary and general elections immediately following the date on which the city clerk received the request.

~~{5.}~~ 6. It is unlawful for a person fraudulently to request an absent ballot in the name of another person or to induce or coerce another person fraudulently to request an absent ballot in the name of another person. A person who violates any provision of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 18. NRS 293C.330 is hereby amended to read as follows:

293C.330 1. Except as otherwise provided in NRS 293C.315 and subsection 2 of NRS 293C.322 and any regulations adopted pursuant thereto, when an absent voter receives his ballot, he must mark and fold it ~~[-]~~ if it is a paper ballot, or punch it ~~[-]~~ if the ballot is voted by punching a card, in accordance with the instructions, deposit it in the return envelope, seal the envelope, affix his signature on the back of the envelope in the space provided therefor and mail the return envelope.

2. Except as otherwise provided in subsection 3, if an absent voter who has requested a ballot by mail applies to vote the ballot in person at:

(a) The office of the city clerk, he must mark or punch the ballot, seal it in the return envelope and affix his signature in the same manner as provided in subsection 1, and deliver the envelope to the city clerk.

(b) A polling place, including, without limitation, a polling place for early voting, he must surrender the absent ballot and provide ~~[satisfactory]~~ ~~current and valid~~ photographic identification before being issued a ballot to vote at the polling place. A person who receives a surrendered absent ballot shall mark it "Cancelled."

3. If an absent voter who has requested a ballot by mail applies to vote in person at the office of the city clerk or a polling place, including, without limitation, a polling place for early voting, and the voter does not have the absent ballot to deliver or surrender, the voter must be issued a ballot to vote if the voter:

(a) Provides ~~[satisfactory]~~ ~~current and valid~~ photographic identification;

(b) Is a registered voter who is otherwise entitled to vote; and

(c) Signs an affirmation under penalty of perjury on a form prepared by the Secretary of State declaring that the voter has not voted during the election.

4. Except as otherwise provided in NRS 293C.317, it is unlawful for any person to return an absent ballot other than the voter who requested the absent ballot or, at the request of the voter, a member of his family. A person who returns an absent ballot and who is a member of the family of the voter who requested the absent ballot shall, under penalty of perjury, indicate on a form prescribed by the city clerk that he is a member of the family of the voter who requested the absent ballot and that the voter requested that he return the absent ballot. A person who violates the provisions of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 19. NRS 293C.3585 is hereby amended to read as follows:

293C.3585 1. Upon the appearance of a person to cast a ballot for early voting, the deputy clerk for early voting shall:

(a) Determine that the person is a registered voter in the county;

(b) Instruct the voter to sign the roster for early voting; ~~and~~

(c) Verify the person has ~~current and valid~~ photographic identification;
and

(d) Verify the signature of the voter against that contained on the original application to register to vote or a facsimile thereof, the card issued to the voter at the time of registration or ~~some other piece of official~~ *the person's* ~~current and valid~~ photographic identification.

2. The city clerk shall prescribe a procedure, approved by the Secretary of State, to determine that the voter has not already voted pursuant to this section.

3. The roster for early voting must contain:

- (a) The voter's name, the address where he is registered to vote, his voter identification number and a place for the voter's signature;
- (b) The voter's precinct or voting district number; and
- (c) The date of voting early in person.

4. When a voter is entitled to cast his ballot and has identified himself to the satisfaction of the deputy clerk for early voting, he is entitled to receive the appropriate ballot or ballots, but only for his own use at the polling place for early voting.

5. If the ballot is voted by punching a card, the deputy clerk for early voting shall:

- (a) Ensure that the voter's precinct or voting district and the form of ballot are indicated on the card;
- (b) Direct the voter to the appropriate mechanical recording device for his form of ballot; and
- (c) Allow the voter to place his voted ballot in the ballot box.

6. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the deputy clerk for early voting shall:

- (a) Prepare the mechanical recording device for the voter;
- (b) Ensure that the voter's precinct or voting district and the form of ballot are indicated on each part of the voting receipt;
- (c) Retain one part of the voting receipt for the election board and return the other part of the voting receipt to the voter; and
- (d) Allow the voter to cast his vote.

7. A voter applying to vote early by personal appearance may be challenged pursuant to NRS 293C.292.

Sec. 20. The provisions of this act become effective on:

1. October 1, 2007, 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

2. October 1, 2008, for all other purposes.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 392.

Bill read second time.

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

Amendment No. 383.

"SUMMARY—~~[Authorizes certain governmental entities to establish, construct and operate toll roads and toll bridges.]~~ *Directs the Legislative Commission to appoint a legislative committee to conduct an interim study on tolling projects.* (BDR ~~[25]~~ §-815)"

"AN ACT relating to transportation; ~~[authorizing certain governmental entities to establish, construct and operate toll projects which include toll roads and toll bridges; authorizing the issuance of revenue bonds or other securities constituting special obligations to fund a toll project; authorizing the assessment and collection of tolls; prohibiting certain actions relating to the collection of tolls; providing penalties;]~~ *directing the Legislative Commission to appoint a legislative committee to conduct an interim study on tolling projects;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Existing law does not specifically authorize municipalities or the Department of Transportation to establish, construct and operate toll roads and toll bridges. Section 19 of this bill authorizes certain governmental entities, namely the Department, certain municipalities and toll districts, to establish, construct and operate toll projects which include toll roads and toll bridges, and to assess tolls for the use of the toll roads and toll bridges. The municipalities with such authorization are described in section 8 of this bill as cities whose population is 10,000 or more (currently the cities of Las Vegas, Reno, Henderson, North Las Vegas, Sparks, Carson City, Elko and Boulder City) and counties whose population is 100,000 or more (currently Clark and Washoe Counties). A toll district with such authorization is described in section 11 of this bill as a political subdivision created by one or more such municipalities for the purpose of planning, designing, financing, constructing, operating and maintaining a toll project within the geographical boundaries of the toll district. Sections 45 and 46 of this bill authorize such governmental entities to issue revenue bonds or other securities constituting special obligations under state law to fund a toll project. Section 34 of this bill provides that tolls may be collected by any method that identifies the correct toll and collects the payment, including manual toll collection, electronic toll collection or use of a photo monitoring system. Section 36 of this bill authorizes such governmental entities to enter into agreements authorizing other public or private entities to design, develop, finance construct, maintain, repair or operate a toll project. Sections 41 and 42 of this bill provide criminal penalties for failure to pay tolls and for submitting false information to such a governmental entity concerning ownership of a motor vehicle to evade the payment of a toll.]~~

This bill authorizes the creation of a legislative committee to conduct an interim study on the implementation of toll roads, toll lands and high-occupancy lanes in this State.

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

Delete existing sections 1 through 62 of this bill and replace with the following new section 1:

Section 1. 1. The Legislative Commission is hereby directed to appoint an interim committee to conduct a study on the feasibility of implementing toll roads, toll lanes and high-occupancy lanes in this State.

2. The interim committee must be composed of six Legislators, one of whom must be appointed as chairman of the committee, as follows:

(a) The Chairman of the Senate Committee on Transportation and Homeland Security;

(b) The Chairman of the Assembly Committee on Transportation;

(c) One member of the Senate Committee on Finance appointed by the Majority Leader of the Senate;

(d) One member of the Assembly Committee on Ways and Means appointed by the Speaker of the Assembly;

(e) One member of the Senate Committee on Taxation appointed by the Majority Leader of the Senate; and

(f) One member of the Assembly Committee on Taxation appointed by the Speaker of the Assembly.

3. The study must include, without limitation:

(a) The proposal of definitions for "governmental entity," "municipality," "toll project," "toll system," "tolling facility" and "toll district" as these terms apply to tolling endeavors.

(b) A determination of the basis for creating a toll district and how it will be governed.

(c) An examination of how a governmental entity may exercise tolling authority as a function of government instead of in a proprietary manner.

(d) A determination of who shall approve a toll project and the establishment of the procedures for approving the project.

(e) The establishment of the criteria which must be considered before a toll project is approved, including, without limitation, the feasibility of integrating the project into the existing highway system and other existing roads and streets or existing plans for a new highway, road or street.

(f) The establishment of guidelines for the conversion of a tolling facility into a nontolling facility and for connecting a private toll road to the state highway system.

(g) A determination of the authority to be granted to a governmental entity participating in a toll project, including, without limitation, the authority to enter into a contract with other governmental entities and with public or private entities, and the authority to develop rules and regulations concerning safety and procurement issues regarding the toll project.

(h) The establishment of guidelines for transferring a toll project from one governmental entity to another governmental entity.

(i) An examination of the reasonableness of giving public or private entities the ability to fund feasibility studies relating to a toll project or toll system.

(j) A determination of when audits should be performed.

(k) A determination of how tolls may be set.

(l) A determination of how to use toll project revenues and any surplus revenues.

(m) A determination of appropriate penalties for toll violations, exemptions from paying tolls and the administrative hearing process relating to violations and exemptions.

(n) A determination of what costs should be included in the construction, maintenance and improvement of a toll facility.

(o) The establishment of guidelines for the issuance of bonds to fund a toll project, to retire debt relating to a toll project and any tax exemptions which may apply.

4. In conducting the study, the committee shall receive periodic reports from the Director of the Department of Transportation concerning innovative financing and project delivery of tolling endeavors.

5. Any recommended legislation proposed by the interim committee must be approved by a majority of the members of the Senate and a majority of the members of the Assembly appointed to the committee.

6. The Legislative Commission shall submit a report of the results of the study and recommended legislation to the 75th Session of the Nevada Legislature.

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 405.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 412.

"SUMMARY—Revises provisions governing the appropriation of ~~public waters.~~ water. (BDR 48-1158)"

"AN ACT relating to water; ~~granting the State Engineer full authority with respect to the analysis, management, appropriation and diversion of public waters; providing for the preemption by decisions of the State Engineer over certain actions of agencies and political subdivisions of the State;~~ 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; 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 ~~[public waters]~~ water by the State Engineer. ~~[Sections]~~ Section 1 ~~[and 4]~~ of this bill ~~[provide]~~ provides that the State Engineer has full and exclusive authority ~~[over the analysis, management, appropriation and diversion of water. Section 5 of this bill prohibits actions by local governments and state agencies that conflict with decisions of the State Engineer. Section 6 of this bill requires the State Engineer, when approving an appropriation for water for an amount less than the amount requested, to declare whether the refusal to appropriate the remaining amount is with or without prejudice.]~~ 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 ~~[oppose]~~ protest applications to appropriate water. (NRS 533.365) Section 7 of this bill ~~[specifies which interested parties may fully participate in hearings, requires applicants and protestants to provide technical data to each other and to the State Engineer, and provides for the resolution of disputes over such data.]~~ authorizes the State Engineer to refuse to consider a protest if certain information concerning the protest is not received by the State Engineer. Section 7 ~~[also requires]~~ makes various other changes concerning protests before the State Engineer, including, without limitation, requiring the State Engineer to render a decision regarding each ~~[permit]~~ application within ~~[120]~~ 240 days after a hearing on the application.

~~Existing law provides for the approval or rejection of applications to appropriate water. (NRS 533.370) Section 8 of this bill requires the State Engineer to reject an application for a proposed use or change in previously appropriated water that increases the amount consumptively used under the existing use. Section 8 also prohibits the State Engineer from using the presence or absence of zoning or planning designations as a determining factor in analyzing an application. Additionally, section 8 authorizes the State Engineer to grant or deny an application to appropriate not more than 10 acre-feet of water without a hearing. Section 8 also authorizes the State~~

~~Engineer to order a reconsideration of a decision on the motion of an interested party or on the motion of the State Engineer.]~~

Existing law authorizes the State Engineer ~~[, when approving a permit application, to set a time limit on the validity of the permit.]~~ *for good cause shown, to extend the time within which water must be applied to a beneficial use under a permit for that use.* (NRS 533.380) Section 9 of this bill authorizes the State Engineer to grant *such* an extension ~~[to a permit]~~ *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:

~~[1. Except as otherwise provided in subsection 2, the]~~ *The State Engineer has full, exclusive and final authority with respect to:*

~~[(a)]~~ *1. The appropriation, allocation and determination of availability of unappropriated water; and*

~~[(b)]~~ *2. The place of diversion, manner of use and place of use of appropriated water.*

~~[2. The orders and decisions of the State Engineer preempt the authority of a political subdivision regarding planning, zoning and management of growth within its jurisdiction only if the political subdivision takes any action that directly or indirectly conflicts with or is otherwise inconsistent with the orders and decisions of the State Engineer or the purposes and objectives of chapter 533 of NRS.]~~

Sec. 2. Chapter 533 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 6, inclusive, of this act.

Sec. 3. ~~[As used in this chapter, "consumptive use" means that portion of an annual volume of water diverted under a water right that is transpired by growing vegetation, evaporated from soils, converted to nonrecoverable water vapor incorporated into products, or that otherwise does not return to the source from which it was taken. The term does not include any water that falls as precipitation directly on the place of use.]~~

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. ~~[The State Engineer shall be the only public agency to analyze and manage the water resources of this State on a basin by basin basis, a regional water flow basis or a statewide basis.]~~

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.

~~Sec. 5. [A state agency or political subdivision, including, without limitation, the Public Utilities Commission of Nevada, shall not take any action that directly alters, changes or diminishes any right regarding the appropriation of water or the place of diversion of water that is granted to a utility by a decision of the State Engineer.] (Deleted by amendment.)~~

~~Sec. 6. [If the State Engineer approves an appropriation of an amount of water less than the amount requested by the applicant, the State Engineer:~~

~~1. Shall make a specific declaration in the decision that:~~

~~(a) The State Engineer is denying the remaining amount of the requested appropriation temporarily and without prejudice; and~~

~~(b) The applicant may resubmit the original application at any point in the future to request an increase in the amount of water appropriated; or~~

~~2. Shall make a specific declaration in the decision that:~~

~~(a) The State Engineer is denying the remaining amount of the requested appropriation with prejudice; and~~

~~(b) The applicant:~~

~~(1) May not resubmit the original application at any point in the future to request an increase in the amount of water appropriated; and~~

~~(2) May file a new application to request an increase in the amount of water appropriated.] (Deleted by amendment.)~~

Sec. 7. 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. ~~[[If the protestant]]~~

~~(a) Is a bona fide owner of water rights who has demonstrated or provided technical data regarding injury or impairment of a permitted, vested, decreed or otherwise adjudicated water right, the protestant may fully participate in any hearing conducted by the State Engineer on the application.~~

~~(b) Has a concern relative to any public policy issues that may attend the application, the protestant may provide a written protest of the application and any supporting documentation and may offer oral comments during a time set by the State Engineer but may not otherwise participate in any hearing conducted by the State Engineer on the application.] 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 ~~fall technical data regarding an application or an application protest not later than 60 days before the date set for the permit application hearing.]~~ information required by the State Engineer relating to the application or protest.

6. The State Engineer or any member of his technical staff may ~~[[at his discretion]]~~ communicate with any applicant, protestant, ~~for person]~~ interested person, governmental entity, technical representative or expert for the purposes of obtaining information which the State Engineer deems necessary to ~~[[a hearing]]~~.

~~7. If there is a dispute regarding technical data relating to a permit application, the]~~ 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 relating 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 ~~[[shall]]~~ may invite technical representatives of the applicant ~~[[and of]]~~ the protestant, an interested person or a governmental entity to meet with the technical staff of the State Engineer ~~[[one or more]]~~

~~times, not less than 30 days before the date set for the permit application meeting, to attempt to reach an agreement regarding the dispute.~~

~~8. The 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 ~~(permit)~~ application not later than ~~120~~ 240 days after the ~~hearing on the application~~ 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. 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.

Sec. 8. 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 ~~1~~ ~~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, 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, 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, ~~for where the proposed use or change increases the historic amount of consumptive use under the existing use or otherwise enlarges the use of the right,~~ 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 ~~with the exception of surface water sources that are tributary to the Colorado River.~~

6. In determining whether an application for an interbasin transfer of groundwater must be rejected pursuant to this section, ~~the~~ the

~~(a) The~~ State Engineer shall consider:

~~(a) (1)~~ Whether the applicant has justified the need to import the water from another basin;

~~(b) (2)~~ 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) (3)~~ Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;

~~(d) (4)~~ 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) (5)~~ Any other factor the State Engineer determines to be relevant.

~~7. (b) The presence or absence of zoning or master plan designations must not be a determining factor in the State Engineer's analysis.~~

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, 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. The provisions of subsections 1 to 6, inclusive, do not apply to an application for an environmental permit.

9. 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. The State Engineer may grant or deny any application to appropriate not more than 10 acre-feet of water without a hearing if the applicant has provided sufficient information with the application. Any application granted pursuant to this subsection must not be used as a precedent for any future or similar applications.~~

~~11. Subject to the provisions of subsection 12, not later than 5 days after the State Engineer issues a decision pursuant to subsection 7, the State Engineer may order reconsideration of the decision:~~

- ~~(a) On the motion of any person interested to reconsider the decision; or~~
- ~~(b) On the motion of the State Engineer.~~

~~12. Grounds for reconsideration pursuant to subsection 11 include, without limitation:~~

- ~~(a) Newly discovered or available evidence;~~
- ~~(b) Error in the hearing or in the findings of fact or conclusion of law; or~~
- ~~(c) The need, in the public interest, for further consideration of the issues or the evidence, or both.~~

~~13.~~ As used in this section, "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. 9. NRS 533.380 is hereby amended to read as follows:

533.380 1. Except as otherwise provided in subsection 5, ~~6~~ 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~~ ~~5~~ 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. *The State Engineer shall grant an extension pursuant to subsection 3 if the permit for which a request for an extension is made is the subject of a pending judicial proceeding. Each extension granted pursuant to this subsection must be in annual increments. An applicant who has been granted an extension pursuant to this subsection shall provide a report to the State Engineer during each year that the permit remains valid.*~~

~~5~~ Except as otherwise provided in subsection ~~5~~ ~~6~~ 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. ~~#6.7~~ The provisions of subsections 1 and 4 ~~#5.7~~ do not apply to an environmental permit.

6. ~~#7.7~~ 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. 10. ~~[NRS 538.171 is hereby amended to read as follows:~~

~~538.171 1. The Commission shall receive, protect and safeguard and hold in trust for the State of Nevada all water and water rights, and all other rights, interests or benefits in and to the waters described in NRS 538.041 to 538.251, inclusive, and to the power generated thereon, held by or which may accrue to the State of Nevada under and by virtue of any Act of the Congress of the United States or any agreements, compacts or treaties to which the State of Nevada may become a party, or otherwise.~~

~~2. Except as otherwise provided in this subsection, applications for the original appropriation of such waters, or to change the place of diversion, manner of use or place of use of water covered by the original appropriation, must be made to the Commission in accordance with the regulations of the Commission. In considering such an application, the Commission shall use the criteria set forth in paragraph (a) of subsection 6 of NRS 533.370. The Commission's action on the application constitutes the recommendation of the State of Nevada to the United States for the purposes of any federal~~

~~action on the matter required by law. The provisions of this subsection do not apply to supplemental water.~~

~~3. The Commission shall furnish to the State Engineer a copy of all agreements entered into by the Commission concerning the original appropriation and use of such waters. It shall also furnish to the State Engineer any other information it possesses relating to the use of water from the Colorado River which the State Engineer deems necessary to allow him to act on applications for permits for the subsequent appropriation of these waters after they fall within the State Engineer's jurisdiction.~~

~~4. Notwithstanding any provision of chapter 533 of NRS, any original appropriation and use of the waters described in subsection 1 by the Commission or by any entity to whom or with whom the Commission has contracted the water is not subject to regulation by the State Engineer.]~~
(Deleted by amendment.)

Senator Amodei moved the adoption of the amendment.

Remarks by Senators Amodei, Care and Raggio.

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

SENATOR AMODEI:

Thank you, Mr. President. Essentially, the amendment before you is now the bill, due in large part to my lack of communication skills with the bill drafters on the original product.

The issue is water in the State of Nevada. Over the past 20 years, the State has enjoyed the status of one of the fastest growing states in the Nation. While we have always fought over water in the State of Nevada, now, over the last 20 years, when we have seen unprecedented amounts of water that have been transferred from historical agricultural uses to urban uses, the amount of scrutiny that we get, in terms of how we deal with water administratively, has increased almost as much as our population.

The amendment to Senate Bill No. 405 attempts to do a few substantive things and a few procedural things. Since 1913, the State Engineer has been the authority in terms of permitting water rights to be used since water is a state resource. A consumer cannot use it unless the State tells him he can. Since 1913, we have had laws on the books that allow the State Engineer to administer this process. In the areas this person administers, he or she is the final administrative authority. As our communities have become more sophisticated and we have gotten regional water entities and entities that are specific to different river systems and basins in our State, there has been an eroding of the State Engineer's authority. One of the first things you see in this amendment to Senate Bill No. 405 is the restatement of the State Engineer's authority. It is nothing new—nothing has been added and nothing has been taken out. It reestablishes, for purposes of applying to use water and applying to move water from different uses to different locations, the State Engineer is the authority as he or she has historically been.

I would like to address the second substantive issue in the amendment. There have been some recent court cases that have indicated there is nothing in our statutes regarding consumptive use. If a consumer is permitted to use one acre foot and uses that to water alfalfa, under many traditional circumstances, some of that water goes back into the ground water, some of it flows in a tail-water ditch and then goes back into the ditch or stream. It then goes to the next consumer down the ditch or stream to use. The first user has not actually consumed an acre-foot even though the user has permission to do so.

When you change consumptive use from historical agricultural operations and put it into pipes and municipal systems, it accounts for water more specifically than when growing alfalfa 30 years ago in a rural town. We have added the word consumptive use to our statutes to allow the State Engineer to make decisions based upon consumptive use in a fact-specific process. It does not define consumptive use for Pahrump the same way as it would for Winnemucca, as it

would for Ruby Valley or as it would for the Smokey Valley, but says consumptive use is something that the State Engineer can take into account when making those sorts of decisions in terms of transferring a use or a place of use.

In a procedural sense, since more and more of the decisions of the State Engineer are being scrutinized in an administrative context and in a judicial review context, we have attempted to codify some of these procedures, which are common but are not in the statute. Those involve the ability of the State Engineer to have a technical-settlement conference, the ability of the State Engineer to talk with parties to a contest, though he or she cannot do so in a truly *ex parte* context. All parties must know that a discussion took place and must know what the substance of the discussion was. It puts a time limit on when the State Engineer must act which is 240 days, not a crisp time limit, but it does add some structure to that process and also codifies the beginnings of the discovery process in terms of allowing the State Engineer to request additional information of applications.

In this amendment, there is an attempt to discourage frivolous protest. If the State Engineer asks for information to support a protest, and he or she does not receive the information; he or she has the ability under the statutes, if this is enacted, to dismiss that protest for a failure to respond.

Finally, if the water rights are under litigation in another court for a different matter, it automatically stays the permit processing time until that litigation is completed.

SENATOR CARE:

Thank you, Mr. President. Being on the Public Lands Committee for the past eight years, I appreciate the importance of all of the issues and legislation this Session regarding water.

I would like to address the bill. Section 1, in the amendment, add allocation and determination of availability of unappropriated water. Does this amendment/bill do anything to any existing avenue of appeal for any decision rendered by the State Engineer? If there is an avenue of appeal, is it an abuse-of-discretion standard?

To the amendment, in section 3, subsection 2(b), the exemption for water originating in the Virgin River or the Muddy River, what is the rationale for that exemption?

SENATOR AMODEI:

Thank you, Mr. President. The Muddy River and Virgin River are considered tributaries to the Colorado River, and it is our intent not to, in any way, affect anything under the Colorado River and the decrees affecting it or, potentially, Lake Mead issues. We are trying not to change any jurisdictional lines with respect to the traditional lines between the Colorado River Commission and the State Engineer's Office for dealing with potential Colorado River issues.

Section 1, the question about allocation and appropriation, does not change any existing jurisdiction of the State Engineer. The abuse-of-discretion standard would be the one found in existing case law in Nevada where someone has protested the ruling of the State Engineer, the court goes back and looks at the facts to see if they can find the facts necessary to support. There is not an abuse-of-discretion standard in statute, but there is in case law based on the decisions that have dealt with administrative procedure even though the State Engineer is specifically excluded from 233(b) of the Administrative Procedures Act which is why there are the procedural references in the amendment that may be dealt with in other administrative law contexts in the general act before us.

There is also language in here that indicates there is no intent, which goes back to the Colorado River Commission question, to affect the Truckee River operating agreement, any federal court decree and State court decree. Obviously, the courts can do what they want with the State Engineer's decisions. There is nothing in here, and it is not the legislative intent to somehow overrule any existing federal court decree or operating agreements or matters of that type.

SENATOR RAGGIO:

I would like to ask the previous speaker whether or not this has any impact upon well-water users?

SENATOR AMODEI:

Not in the specific, only in the general. If there are domestic well-water users, there is nothing in Senate Bill No. 405 or the amendment that would deal with those, so they would be left to existing state law.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

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

Motion carried.

Senate in recess at 1:17 p.m.

SENATE IN SESSION

At 1:30 p.m.

President Krolicki presiding.

Quorum present.

Senate Bill No. 415.

Bill read second time.

The following amendment was proposed by Senators Horsford, Care, Carlton, Coffin, Lee, Mathews, Schneider, Titus, Wiener and Woodhouse:

Amendment No. 287.

"SUMMARY—Provides that certain alien students are not eligible to receive certain types of financial assistance through the Nevada System of Higher Education. (BDR 34-222)"

"AN ACT relating to higher education; providing that certain alien students are not eligible to receive certain types of financial assistance through the Nevada System of Higher Education; providing an exception for certain alien students to receive a millennium scholarship; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 505 of the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996 prohibits states from providing a postsecondary education benefit to an alien who is not lawfully present in the United States unless any citizen or national of the United States is eligible for such a benefit. (8 U.S.C. § 1623) The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) restricts the eligibility of aliens for state and local benefits, including postsecondary education benefits. (8 U.S.C. §§ 1601 et seq.) Under the PRWORA, an alien who is not a qualified alien or nonimmigrant is not eligible for any state or local benefit except certain benefits such as emergency medical services, emergency disaster relief and certain public health assistance. (8 U.S.C. § 1621)

Existing state law grants free tuition in the Nevada System of Higher Education to students who are bona fide residents of Nevada for a certain period. (NRS 396.540) Existing law also authorizes the Board of Regents of

the University of Nevada to provide loans to certain nursing students, ~~and scholarships to certain students under the Governor Guinn Millennium Scholarship Program who are residents of Nevada for a certain period.~~ (NRS 396.890) ~~[, 396.930)]~~ Section 1 of this bill amends the definition of "bona fide resident" to exclude an alien who is not eligible for a state or local benefit in accordance with the PRWORA. Therefore, alien students who are not eligible for state or local benefits under the PRWORA are not eligible for free tuition in the System, ~~or nursing loans, for Millennium Scholarships.~~

Existing law authorizes the Board of Regents to enter into agreements for tuition waivers for students from other states and foreign countries. (NRS 396.543) Section 2 of this bill prohibits the granting of such waivers to alien students who are not eligible for a state or local benefit under the PRWORA.

Existing law creates the Governor Guinn Millennium Scholarship Program. (NRS 396.911-396.938) Section 3 of this bill adds a definition of "bona fide resident" for purposes of eligibility for a millennium scholarship to exclude alien students who are not eligible for a state or local benefit under PRWORA. Section 3 also allows such an alien student to receive a millennium scholarship if the student executes an affidavit declaring his intention to become a citizen of the United States. The Board of Regents shall provide a procedure for repayment of the millennium scholarship if an alien student who executed such an affidavit does not initiate the citizenship process within a reasonable period of time.

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

Section 1. NRS 396.540 is hereby amended to read as follows:

396.540 1. For the purposes of this section:

(a) "Bona fide resident" shall be construed in accordance with the provisions of NRS 10.155 and policies established by the Board of Regents, to the extent that those policies do not conflict with *this section* or any other statute. *The term does not include an alien who is not eligible for a state or local public benefit as determined in accordance with 8 U.S.C. § 1621.* The qualification "bona fide" is intended to assure that the residence is genuine and established for purposes other than the avoidance of tuition.

(b) "Matriculation" has the meaning ascribed to it in regulations adopted by the Board of Regents.

(c) "Tuition charge" means a charge assessed against students who are not *bona fide* residents of Nevada and which is in addition to registration fees or other fees assessed against students who are *bona fide* residents of Nevada.

2. The Board of Regents may fix a tuition charge for students at all campuses of the System, but tuition must be free to:

(a) All students whose families have been bona fide residents of the State of Nevada for at least 12 months prior to the matriculation of the student at a university, state college or community college within the System;

(b) All students whose families reside outside of the State of Nevada, providing such students have themselves been bona fide residents of the State of Nevada for at least 12 months before their matriculation at a university, state college or community college within the System;

(c) All public school teachers who are employed full time by school districts in the State of Nevada;

(d) All full-time teachers in private elementary, secondary and postsecondary educational institutions in the State of Nevada whose curricula meet the requirements of chapter 394 of NRS;

(e) Employees of the System who take classes other than during their regular working hours; and

(f) Members of the Armed Forces of the United States.

3. ~~{The}~~ *Except as otherwise provided in this subsection, the Board of Regents may grant tuitions free each semester to other worthwhile and deserving students from other states and foreign countries, in a number not to exceed a number equal to 3 percent of the total matriculated enrollment of students for the last preceding fall semester. Free tuition must not be granted pursuant to this subsection to an alien who is not eligible for a state or local public benefit as determined in accordance with 8 U.S.C. § 1621.*

Sec. 2. NRS 396.543 is hereby amended to read as follows:

396.543 1. The Board of Regents may enter into an agreement with another state for the granting of full or partial waivers of the nonresident tuition to residents of the other state who are students at or are eligible for admission to any branch of the System if the agreement provides that, under substantially the same circumstances, the other state will grant reciprocal waivers to residents of Nevada who are students at or are eligible for admission to universities or colleges in the other state.

2. Each agreement must specify:

(a) The criteria for granting the waivers; and

(b) The specific universities, state colleges and community colleges for which the waivers will be granted.

3. The Board of Regents shall provide by regulation for the administration of any waivers for which an agreement is entered into pursuant to subsection 1.

4. *A waiver must not be granted pursuant to this section to an alien who is not eligible for a state or local public benefit as determined in accordance with 8 U.S.C. § 1621.*

5. The waivers granted pursuant to this section must not be included in the number of waivers determined for the purpose of applying the limitation in subsection 3 of NRS 396.540.

Sec. 3. NRS 396.930 is hereby amended to read as follows:

396.930 1. Except as otherwise provided in subsections 2 and 3, a student may apply to the Board of Regents for a millennium scholarship if he:

(a) Has been a *bona fide* resident of ~~[this State]~~ Nevada for at least 2 years before he applies for the scholarship;

(b) Except as otherwise provided in paragraph (c), graduated from a public or private high school in this State:

(1) After May 1, 2000, but not later than May 1, 2003; or

(2) After May 1, 2003, and, except as otherwise provided in paragraph (c) of subsection 2, not more than 6 years before he applies for the scholarship;

(c) Does not satisfy the requirements of paragraph (b) and:

(1) Was enrolled as a pupil in a public or private high school in this State with a class of pupils who were regularly scheduled to graduate after May 1, 2000;

(2) Received his high school diploma within 4 years after he was regularly scheduled to graduate; and

(3) Applies for the scholarship not more than 6 years after he was regularly scheduled to graduate from high school;

(d) Maintained in high school in the courses designated by the Board of Regents pursuant to paragraph (b) of subsection 2, at least:

(1) A 3.00 grade point average on a 4.0 grading scale, if he was a member of the graduating class of 2003 or 2004;

(2) A 3.10 grade point average on a 4.0 grading scale, if he was a member of the graduating class of 2005 or 2006; or

(3) A 3.25 grade point average on a 4.0 grading scale, if he was a member of the graduating class of 2007 or a later graduating class; and

(e) Is enrolled in at least:

(1) Six semester credit hours in a community college within the System;

or

(2) Twelve semester credit hours in another eligible institution.

2. The Board of Regents:

(a) Shall define the core curriculum that a student must complete in high school to be eligible for a millennium scholarship.

(b) Shall designate the courses in which a student must earn the minimum grade point averages set forth in paragraph (d) of subsection 1.

(c) May establish criteria with respect to students who have been on active duty serving in the Armed Forces of the United States to exempt such students from the 6-year limitation on applications that is set forth in subparagraph (2) of paragraph (b) of subsection 1.

(d) Shall establish criteria with respect to students who have a documented physical or mental disability or who were previously subject to an individualized education program under the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., or a plan under Title V of the Rehabilitation Act of 1973, 29 U.S.C. §§ 791 et seq. The criteria must provide an exemption for those students from:

(1) The 6-year limitation on applications that is set forth in subparagraph (2) of paragraph (b) of subsection 1 and subparagraph (3) of

paragraph (c) of subsection 1 and any limitation applicable to students who are eligible pursuant to subparagraph (1) of paragraph (b) of subsection 1.

(2) The minimum number of credits prescribed in paragraph (e) of subsection 1.

3. Except as otherwise provided in paragraph (c) of subsection 1, for students who did not graduate from a public or private high school in this State and who have been *bona fide* residents of this State for at least 2 years, the Board of Regents shall establish:

(a) The minimum score on a standardized test that such students must receive; or

(b) Other criteria that students must meet,
 ➔ to be eligible for millennium scholarships.

4. In awarding scholarships, the Board of Regents shall enhance its outreach to students who:

(a) Are pursuing a career in education or health care;

(b) Come from families who lack sufficient financial resources to pay for the costs of sending their children to an eligible institution; or

(c) Substantially participated in an antismoking, antidrug or antialcohol program during high school.

5. The Board of Regents shall establish a procedure for repayment of a millennium scholarship to the Trust Fund by a student who signs an affidavit for purposes of subsection 6 declaring his intention to become a citizen of the United States and who does not within a reasonable period of time initiate the process for citizenship.

6. As used in this section, "bona fide resident" ~~has the meaning ascribed to it in NRS 396.540.~~ shall be construed in accordance with the provisions of NRS 10.155 and policies established by the Board of Regents, to the extent that those policies do not conflict with this section or any other statute. The term does not include an alien who is not eligible for a state or local public benefit as determined in accordance with 8 U.S.C. § 1621 unless the alien has executed an affidavit declaring the intention to become a citizen of the United States. The qualification "bona fide" is intended to ensure that the residence is genuine and established for purposes other than to be eligible for a scholarship.

Sec. 4. This act becomes effective on ~~July 1, 2007.~~ January 15, 2008.

Senator Carlton, moved the adoption of the amendment.

Remarks by Senators Carlton, Beers, Amodei, Titus, Washington, Heck and Nolan.

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

SENATOR CARLTON:

Thank you, Mr. President. This has been a well-discussed issue this Session. I would like to put my comments on the record about the immigration problems and the discussions as they relate to the Millennium Scholarship.

I realize that the committee who processed a number of these bills has processed a provision that is very similar in another piece of legislation. It came out of the committee unanimously. Basically, what this does is it allows a student who does not have the option now to become a citizen to sign an affidavit stating that when their time comes, they will become a citizen, and if they do not and they get their scholarship and do not fulfill their part of the bargain, they will pay the State back. This is a very simple, honest deal with these students. Their future is going to college. These are young people, who were brought into this country when they were very young, most of the time, never to go back to their home country. They know no one there. Some of them may not know they are not documented. Their parents have never discussed it with them. They live in an underground culture. What we are trying to do is help these successful Nevada graduates succeed, go to college and become productive members of Nevada. They are our future. They are trying very hard and want to do the right thing. This is nothing new. We do it in a number of other states: Utah, Kansas, Texas and Oklahoma. I think there are ten states.

I would like to ask the body to support this amendment. We understand what we are trying to do. The committee supported it in Senate Bill No. 52. I think it is the right thing to do to help students get an education in this Country. We know that with a college education you can go much further than without. I ask for your support.

SENATOR BEERS:

Thank you, Mr. President. As I read this with the amendment, would this offer Millennium Scholarships to students paying out-of-state tuition?

SENATOR CARLTON:

Thank you, Mr. President. It was my understanding that the intent of this amendment was to deal strictly with the Millennium Scholarship part of Senate Bill No. 415. If I have been misinformed or if I have misread that, I will stand corrected if anyone has any other information. But, this strictly deals with undocumented students signing an affidavit to receive their Millennium Scholarship.

SENATOR AMODEI:

To my colleague from Clark County District 2, I listened to the discussion and happened to agree with you, but as I look at the reference to Senate Bill No. 52, on pages 9 and 10 of Amendment No. 421 to Senate Bill No. 52 and have compared the language and the language is identical as put forth in Amendment No. 287. If we have identical language in two bills, what is the reason for that? Why do we have duplicate provisions in two separate bills and two separate amendments?

SENATOR TITUS:

Thank you, Mr. President. That is our concern, too. We already have Senate Bill No. 52. It was amended unanimously in committee with this language. Obviously, that committee thought the affidavit approach was better than the approach that you find in Senate Bill No. 415, and yet for some reason, the sponsor wants to continue with Senate Bill No. 415. We are wasting time; we are wasting paper, and we are wasting energy. Why are we not just considering Senate Bill No. 52 that came out of committee with this amendment unanimously?

SENATOR AMODEI:

Yea for Senate Bill No. 52.

SENATOR WASHINGTON:

Thank you, Mr. President. Just for clarification, Senate Bill No. 415 deals with all scholarship funds that are available to students within the State including nonresidents. Without the affidavit, they would be able to receive any scholarship funds. What this bill does, will make it all inclusive. Therefore, whatever scholarship funds are available, if you are an illegal alien, you still have the opportunity to receive scholarships as long as you fill out the affidavit stating your intention. Senate Bill No. 52 is narrowly defined for students applying for the Millennium Scholarship.

SENATOR HECK:

Thank you, Mr. President. As the primary sponsor of this bill, I feel compelled to respond to the comments by my colleague from Clark County Senatorial District 7 and as well to my colleague from Clark County Senatorial District 2. While there are eight or nine states that do have similar provisions in their laws, currently three states specifically prohibit these benefits. Among the border states, three are currently in lawsuits because of those provisions within their laws. Utah, which is one of those states, is currently considering the repeal of their law that allows this because of these very issues. That is why Senate Bill No. 415 is proceeding. Senate Bill No. 52 as previously stated, only deals with the Millennium Scholarship. This bill deals with all post-secondary financial aid that is sponsored by the State.

SENATOR TITUS:

Thank you, Mr. President. I have two questions. One is, if that is such a problem, why did the primary sponsor of this bill vote for the amendment to Senate Bill No. 52? Has some new information come to light to cause him to change his mind and think we now need Senate Bill No. 415?

My second question is, what other types of financial assistance are available to undocumented students besides the Millennium Scholarship? Are you just trying to refer to in-state tuition? Is that what you mean? Could you please lay out for us what other kinds of financial assistance the State provides that might go to one of these students who could sign an affidavit?

SENATOR HECK:

Thank you, Mr. President. The reason for my personal vote on the amendment was that there were other provisions within that bill which I deemed worthwhile for further consideration by this entire body. In my desire to move that bill forward for full consideration, I voted for that amendment.

In answer to the second question, other financial aid that would be available would include the in-state tuition waivers and could possibly include certain student loans that are funded by the State for certain occupations and for certain majors. In addition, it would cover any financial aid that may be later decided upon by this body or instituted by the System of Higher Education.

SENATOR NOLAN:

Thank you, Mr. President. I have a question for the sponsor of the amendment. It is one I had not contemplated before I voted for the language in Senate Bill No. 52. I am wondering what the legal force of effect is on a 16- or 17-year-old senior who has been accepted for the Millennium Scholarship and they are an undocumented student and a minor. What is the force of the effect of an affidavit they would sign if they have parents who are here under an illegal status?

SENATOR CARLTON:

In reading this, it says the system will establish regulations to deal with these particular issues. I am certain the system can come up with the same type of procedure where the parent would come in, the parent would sign and they would take what other information that would be necessary. If it were a minor, they would ask the parent. This could ultimately become a problem because people are apprehensive about this, but if it is a decision between having your child go to college or not, I believe those parents will step up and say, "Yes, this is me. I will sign." The system will have the opportunity to develop the regulations and safeguards that would be needed in order to enforce this affidavit procedure.

SENATOR WASHINGTON:

The problem with that is if the parent is here illegally, then you have created another problem for that parent. There are probably parents who are going to be apprehensive about signing any waiver for their minor child to obtain the Millennium Scholarship. You have created another scenario for INS. I think you might want to reconsider this.

SENATOR CARLTON:

Thank you, Mr. President. I would like to point out to the two previous speakers, these children have gone through the Clark County school system, the Nye County school system, and

the Washoe County school system. They have been involved in the system, and the parents have had to sign papers and get immunizations to process their children through the entire public education system all the way up through grade 12. I do not think this would be that unique in that respect.

SENATOR TITUS:

Thank you, Mr. President. They are not signing a waiver; they are signing an affidavit that when they have the opportunity, they will apply for citizenship. We want people to become citizens. This is what the amendment does. It says they will become citizens when they have an opportunity. I will go back to my question about what other funds are available besides not allowing them in-state tuition. I hear some vague reference to some vague programs about some vague occupations, but I did not hear any specifics. I heard some reference to some future program that we might create that would provide assistance. We cannot even afford to continue the Millennium Scholarship. I cannot imagine what kind of future program we might be creating that we might want to deny to these children.

SENATOR HECK:

In an effort to further clarify the previous answer I offered, one program that comes to mind is the nursing-loan program which is sponsored by the State which would be of no benefit because you cannot be licensed as a nurse in the State of Nevada unless you are here as a legal resident or are legally qualified to be in the United States. That is one example of a student financial aid program. I do not know what financial aid programs this body or this State may offer in the future, but if it had been law when the Millennium Scholarship was conceived we would not be debating the issue today.

SENATOR WASHINGTON:

Mr. President, I would like to clarify the question once again. I think my colleague has answered it correctly, but in the bill, in section 1, subsection 3, it specifies "the Board of Regents may grant tuition free waivers each semester to other worthwhile and deserving students from other states and foreign countries, in a number not to exceed a number equal to 3 percent of the total matriculated enrollment of students for the last preceding fall semester." It then says, with the new language, "Free tuition must not be granted pursuant to this subsection to an alien who is not eligible for a state of local public benefit as determined in accordance with 8 U.S.C., § 1621." I think that answers the question if you follow the bill.

Senators Rhoads, Nolan and Cegavske moved the previous question.

Motion carried.

The question being on the adoption of Amendment No. 287 to Senate Bill No. 415.

Motion failed.

Bill ordered to third reading.

Senate Bill No. 438.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 168.

"SUMMARY—Authorizes a board of county commissioners to contract with a private entity for the detention of prisoners. (BDR 16-1354)"

"AN ACT relating to correctional institutions; ~~providing in skeleton form for~~ authorizing a board of county commissioners, with the concurrence of the sheriff, to enter into an agreement with a private entity for the detention of the prisoners of the county; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires at least one county jail to be built in each county and authorizes each board of county commissioners to enter into agreements with other counties or cities for the construction, operation or maintenance of a jail or for the detention of the prisoners of the county. (NRS 211.010) ~~[This]~~ Section 10 of this bill authorizes a board of county commissioners, with the concurrence of the sheriff, to enter into an agreement with a private entity for the detention of the prisoners of the county. Section 6 of this bill prohibits a board of county commissioners from entering into a contract with a private entity for such a purpose under certain circumstances. Section 7 of this bill establishes certain restrictions on a contract entered into between a board of county commissioners and a private entity. Section 8 of this bill provides that employees of a private entity that provide security may only use force under certain circumstances. Section 9 of this bill prohibits the authorization or delegation of certain authority or responsibilities to a private entity.

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

Section 1. Chapter 211 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

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

Sec. 3. "Correctional services" includes the following functions, services and activities when provided with regard to the private facility:

1. The operation of the private facility, including management, custody of prisoners and security.

2. Services for food, medical attention, transportation and sanitation, a commissary and other ancillary services.

3. Development and implementation of systems for classification, management and information and other similar services.

4. Education, training and programs for employment.

5. Counseling, treatment programs and other programs for the special needs of the prisoners.

Sec. 4. "Private entity" means a person with a contractual agreement with the board of county commissioners of a county to provide correctional services to prisoners at the private facility.

Sec. 5. "Private facility" means a correctional facility proposed for operation or construction by a private entity pursuant to an agreement with the board of county commissioners of a county, including, without limitation, any physical improvement, any preliminary plan, study or survey related thereto, the land or the right to land, and any furnishings, machines, vehicles, apparatus or equipment used in connection therewith.

Sec. 6. The board of county commissioners of a county may not enter a contract for correctional services unless the private entity provides:

1. Evidence of his qualifications, experience and ability to comply with applicable court orders and correctional standards.

2. A plan of indemnification for liability, including indemnity for civil rights claims. The plan must protect the State from all claims and losses incurred as a result of the contract. The provisions of this subsection do not deprive a private entity or the county of the benefits of any law that limits its exposure to liability or damages.

3. Evidence of past performance of similar contracts, including audited financial statements for the past 5 years or for each of the years the private entity has been in operation, if less than 5 years, and other financial information as requested.

4. Management personnel necessary to carry out the terms of the contract.

Sec. 7. A contract entered into pursuant to NRS 211.010, including contracts for the provision of correctional services, the lease or use of public lands or a public building for use in the operation of the private facility must provide:

1. Internal and perimeter security to protect the public, employees and prisoners.

2. Work or training opportunities for prisoners while they are incarcerated. The private entity must not benefit financially from the labor of the prisoners.

3. Discipline for prisoners in accordance with applicable standards and procedures.

4. Food, clothing, housing and medical care for prisoners.

Sec. 8. 1. Employees of a private entity that provide security may only use force and exercise their power and authority while:

(a) On the grounds of the private facility under the supervision of the contractor.

(b) Transporting prisoners.

(c) Pursuing escapees from the private facility.

2. The provisions of chapter 212 of NRS apply to the:

(a) Guards or correctional officers employed by the private entity; and

(b) Prisoners assigned to the private facility, or to a program for which the private entity is providing correctional services.

↳ to the same extent that those provisions would apply if the services provided by the private entity were being provided by the county jail.

Sec. 9. A contract for correctional services must not authorize, allow or imply a delegation of authority or responsibility of the board of county commissioners of a county to a private entity for:

1. Developing and implementing procedures for calculating dates for release of prisoners or eligibility for parole.

2. Developing and implementing procedures for calculating and awarding credits against the term of imprisonment.

3. Approving prisoners for furlough and work release.

4. Approving the work prisoners may perform and the wages or credits that may be given the prisoners who are engaged in such work.

5. Granting, denying or revoking credits against the term of imprisonment.

~~[Section 1]~~ Sec. 10. NRS 211.010 is hereby amended to read as follows:

211.010 1. Except as otherwise provided in subsection 2, at least one county jail must be built or provided in each county, and maintained in good repair at the expense of the county. The county jail required by this section is not required to be located in conjunction with the office of the sheriff that is maintained at the county seat if the board of county commissioners determines that a different location in the county would better serve the needs of the county. Upon such a determination, the county jail may be located at any place in the county.

2. The board of county commissioners of a county, with the concurrence of the sheriff, may enter into an agreement with ~~[any]~~ :

(a) Any other county or city in this State, in accordance with the provisions of NRS 277.080 to 277.180, inclusive, for the construction, operation or maintenance of a jail or the detention of the prisoners of the county ~~[]~~ ; and

(b) Any private entity for ~~[the detention of the prisoners of the county]~~ financing, acquiring, constructing or operating a private facility.

Sec. 11. NRS 211.020 is hereby amended to read as follows:

211.020 The board of county commissioners:

1. ~~[It]~~ Except as otherwise provided in this subsection, is responsible for building, inspecting and repairing any county or branch county jail located in its county. This subsection does not apply to a private facility.

2. Once every 3 months, shall inquire into the security of the jail and the treatment and condition of the prisoners.

3. Shall take all necessary precautions against escape, sickness or infection.

Sec. 12. NRS 211.030 is hereby amended to read as follows:

211.030 1. The sheriff is the custodian of the jail in his county, and of the prisoners therein, and shall keep the jail personally, or by his deputy, or by a jailer or jailers appointed by him for that purpose, for whose acts he is responsible.

2. All jailers employed or appointed by the sheriff are entitled to receive a fair and adequate monthly compensation, to be paid out of the county treasury, for their services.

3. This section does not apply to a private facility.

Sec. 13. NRS 211.115 is hereby amended to read as follows:

211.115 1. In a county in which a metropolitan police department is established, the governing body of any participating city may:

~~[It]~~ (a) Establish a department of detention and may appoint a person to administer the detention facilities; or

~~(2.)~~ (b) Appoint a person to administer its jail.

2. *This section does not apply to a private facility.*

Sec. 14. The preliminary chapter of NRS is hereby amended by adding thereto a new section to read as follows:

Whenever used in the Statutes of Nevada and Nevada Revised Statutes:

1. *Except as otherwise provided in NRS 211.020, 211.030, 211.115 and 248.050, the terms "detention facility," "jail of the county," "county jail" and "jail" include a private facility as defined in section 5 of this act.*

2. *The terms "branch county jail" and "city jail" do not include a private facility as defined in section 5 of this act.*

Sec. 15. NRS 248.050 is hereby amended to read as follows:

248.050 ~~(The)~~ *Except as otherwise provided in this section, the sheriff of each county shall have the custody of the jail of his county and the prisoners in the same, and shall appoint the keeper thereof, for whose conduct he shall be responsible, and whom he may remove at pleasure. This section does not apply to a private facility as defined in section 5 of this act.*

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 450.

Bill read second time.

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

Amendment No. 211.

"SUMMARY—Makes various changes to provisions relating to the regulation of oversized and overweight vehicles. (BDR 43-1140)"

"AN ACT relating to transportation; establishing a regional advisory committee in each county whose population is 400,000 or more to advise the Department of Transportation on certain issues relating to oversized and overweight vehicles; removing the authority of a city or county to issue permits to operate oversized or overweight vehicles on the highways of this State; providing that the Department may adopt regulations limiting the movement of oversized or overweight vehicles; prohibiting a local authority from enacting an ordinance requiring a permit to operate a vehicle; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Department of Transportation and the governing body of a county or a city to issue a permit to operate a vehicle that exceeds the maximum width, length, height or weight as prescribed by law. (NRS 484.7631, 484.765) Section 2 of this bill establishes a regional advisory committee in every county in this State whose population is 400,000 or more to advise the Department *and affected cities and counties* on issues regarding oversized and overweight vehicles. Section 3 of this bill

provides that the regional advisory committees ~~may~~ shall make certain recommendations to the Department, and the Department may adopt regulations, regarding routes for oversized and overweight vehicles as well as the hours of the day and days of the week that best facilitate the safe movement of oversized and overweight vehicles. Section 4 of this bill grants the Department the authority to issue certain permits for oversized and overweight vehicles. Sections 9 and 12 of this bill remove the authority of a governing body of a city or county to issue a permit to operate a vehicle that exceeds the maximum width, length, height or weight as prescribed by law.

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

Section 1. Chapter 484 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. 1. *There is hereby created in each county whose population is 400,000 or more a regional advisory committee to make recommendations to the Department of Transportation and to affected cities and counties, as applicable, regarding the movement of oversized or overweight vehicles in this State.*

2. *The membership of such a committee must consist of:*

(a) *One member appointed by the Department of Transportation who shall serve as the chair of the committee;*

(b) *One member appointed by the board of county commissioners;*

(c) *One member appointed by the city council of every incorporated city within the county;*

(d) *One member appointed by the largest construction industry association in the county; and*

(e) *One member appointed by the largest motor transport association in the county.*

3. *Each member of such a committee must be appointed for a term of 2 years. A vacancy in the membership of the committee must be filled in the same manner as the original appointment for the remainder of the unexpired term. A member who is appointed to fill a vacancy must possess the same general qualifications as his predecessor.*

4. *Members of such a committee shall serve without compensation.*

Sec. 3. 1. *Each committee established pursuant to section 2 of this act:*

(a) *Shall recommend to the Department of Transportation and the affected cities and counties establishment of certain routes by which oversized or overweight vehicles may proceed through ~~the~~ a city or county ~~+~~ and any modifications to those routes; and*

(b) ~~May~~ Shall recommend ~~+~~ and regulations that the Department of Transportation may adopt ~~+~~ regulations that to limit the movement of oversized or overweight vehicles to certain:

(1) *Routes;*

(2) *Hours of the day; or*

(3) *Days of the week,*

↪ *to ensure public safety.*

2. *The Department of Transportation and the affected cities and counties shall consider any recommendations concerning the movement of oversized or overweight vehicles made by a committee established pursuant to section 2 of this act.*

Sec. 4. *Upon receipt of the necessary application in writing, the Department of Transportation shall issue a permit to operate or move a vehicle on the highways of this State which has a load that:*

1. *Exceeds 14 feet in height;*
2. *Exceeds 70 feet in length; or*
3. *Exceeds 102 inches in width,*

↪ *unless the Department of Transportation determines that the operation of the vehicle would be a safety hazard or impede the flow of traffic.*

Sec. 5. NRS 484.471 is hereby amended to read as follows:

484.471 1. A procession, except a funeral procession, or parade, except the forces of the United States Armed Services, the military forces of this State and the forces of the police and fire departments, must not occupy, march or proceed along any highway except in accordance with the permit issued by the proper public authority.

2. A sound truck or other vehicle equipped with an amplifier or loudspeaker must not be driven upon any highway for the purpose of selling, offering for sale or advertising in any fashion except in accordance with a permit issued by the proper public authority.

3. An oversized or overweight vehicle or equipment must not be driven, occupy or proceed upon any highway except in accordance with a permit issued by the ~~[proper public authority]~~ Department of Transportation.

4. Any person who violates any provision of this section is guilty of a misdemeanor.

Sec. 6. NRS 484.759 is hereby amended to read as follows:

484.759 1. As used in this section and NRS 484.760, "special mobile equipment" means a vehicle, not self-propelled, not designed or used primarily for the transportation of persons or property, and only incidentally operated or moved over a highway, excepting implements of husbandry.

2. The Department of Transportation with respect to highways under its jurisdiction and governing bodies of cities and counties with respect to roads under their jurisdiction may, upon application in writing, authorize the applicant to operate or move a vehicle, combination of vehicles, special mobile equipment, or load thereon of a size or weight exceeding the legal maximum, or to use corrugations on the periphery of the movable tracks on a traction engine or tractor, the propulsive power of which is not exerted through wheels resting on the roadway but by means of a flexible band or chain, or, under emergency conditions, to operate or move a type of vehicle otherwise prohibited by law, upon any highway under the jurisdiction of the Department of Transportation or governing body granting that permit.

3. Except as otherwise provided in NRS 484.7595 to ~~[484.7631,]~~ 484.7625, inclusive, the legal maximum width of any vehicle, combination of vehicles, special mobile equipment or load thereon is 102 inches.

4. If a vehicle is equipped with pneumatic tires, the maximum width from the outside of one wheel and tire to the outside of the opposite outer wheel and tire must not exceed 108 inches, and the outside width of the body of the vehicle or the load thereon must not exceed 102 inches.

5. Lights or devices which must be mounted upon a vehicle under this chapter may extend beyond the permissible width of the vehicle to a distance not exceeding 10 inches on each side of the vehicle, but the maximum width must not exceed 126 inches.

6. Door handles, hinges, cable cinchers and chain binders may extend 3 inches on each side, but the maximum width of body and door handles, hinges, cable cinchers or chain binders must not exceed 108 inches.

7. A person shall not operate a passenger vehicle on any highway with any load carried thereon extending beyond the line of the hubcaps on its left side or more than 6 inches beyond the line of the hubcaps on its right side.

Sec. 7. NRS 484.7605 is hereby amended to read as follows:

484.7605 1. If a vehicle is carrying a load of loosely piled agricultural products such as hay, straw or leguminous plants in bulk but not crated, baled, boxed or sacked, the load of loosely piled material and any loading racks retaining the load must not exceed 120 inches in width.

2. The provisions of NRS 484.759 with respect to maximum widths do not apply to implements of husbandry incidentally operated, transported, moved or towed over a highway other than an interstate highway or a controlled-access highway.

3. If an implement of husbandry is transported or moved as a load on another vehicle over:

(a) An interstate highway or a controlled-access highway, and the load exceeds 102 inches in width, the movement is subject to the provisions of NRS ~~[484.7631]~~ 484.7625 and the regulations adopted pursuant thereto.

(b) Any highway other than an interstate highway or a controlled-access highway, and the load exceeds 120 inches in width, the vehicle and load must not be operated for a distance of more than 25 miles from the point of origin of the trip and must not be operated at a speed in excess of 30 miles per hour.

Sec. 8. NRS 484.764 is hereby amended to read as follows:

484.764 The application for a permit under NRS 484.759 to ~~[484.7631,]~~ 484.7625, inclusive, must:

1. Specifically describe the vehicle or special mobile equipment and load to be operated or moved and the particular highways over which the permit to operate is requested.

2. State whether the permit is requested for a single trip, for continuous use or for multiple trips over a limited time.

Sec. 9. NRS 484.765 is hereby amended to read as follows:

484.765 1. No vehicle operated or moved upon any public highway under the authority of a continuous or multiple trip-limited time permit may exceed a maximum weight of 20,000 pounds on any single axle. Before any continuous permit is issued, the applicant shall pay a reasonable fee to be determined by the Department of Transportation ~~for the governing body of any city or county~~ to pay the costs and expenses of conducting an initial investigation of the highway or highways involved.

2. If, after issuance of a continuous or multiple trip-limited time permit, ~~by~~ the Department of Transportation ~~for the governing body of any city or county the Department or governing body~~ finds that the traffic authorized by such continuous or multiple trip-limited time permit has caused substantial highway distress, the permit may be revoked summarily, but the revocation does not operate to prevent a subsequent filing of a new application for another continuous or multiple trip-limited time permit.

Sec. 10. NRS 484.769 is hereby amended to read as follows:

484.769 1. It is unlawful for any person to operate or move any vehicle or equipment described in NRS 484.739 or 484.759 to ~~484.7631,~~ 484.7625, inclusive, over any highway without first obtaining a permit, or to violate or evade any of the terms or conditions of the permit when issued. A person violating any of the provisions of NRS 484.759 to 484.767, inclusive, is guilty of a misdemeanor.

2. Any person operating or moving any vehicle or equipment described in NRS 484.739 or 484.759 to ~~484.7631,~~ 484.7625, inclusive, over any highway under the authorization of a permit for continuous use or multiple trips over a limited time and who violates any weight limitation in excess of the weight authorized by the permit must be punished, upon conviction, as provided in NRS 484.757.

Sec. 11. 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~~ *Except as otherwise provided in subsection 3 and 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 ~~or~~ *or regulations adopted pursuant thereto*. 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 ~~or~~ ; *or*

(d) Requiring a permit for a vehicle, or to operate a vehicle, on a highway in this State.

4. No person convicted or adjudged guilty of a violation of a traffic ordinance may be charged or tried in any other court in this State for the same offense.

Sec. 12. NRS 484.7631 is hereby repealed.

Sec. 13. This act becomes effective on July 1, 2007.

TEXT OF REPEALED SECTION

484.7631 Permit to operate oversized vehicle; coordination with affected entities; regulations limiting hours, days or routes for movement of oversized vehicle; meetings with affected industries; expedited procedure.

1. In a county whose population is less than 400,000, the Department of Transportation with respect to highways under its jurisdiction and the governing body of the county or a city in the county with respect to roadways under the jurisdiction of the county or city may, upon request, issue a permit to operate a vehicle, or a vehicle with a load that exceeds the legal maximum width, length or height for the vehicle, unless the Department or governing body determines that the operation would be a safety hazard or would unduly impede the flow of traffic.

2. In a county whose population is 400,000 or more:

(a) If the operation of a vehicle specified in subsection 1 will not include operation on the state highway system established pursuant to chapter 408 of NRS, the governing body of the county and each city in the county may, upon request, issue a permit to operate the vehicle on a roadway in that city or county:

(1) If the governing body has jurisdiction over the roadway at the point of origination of the route of the vehicle; and

(2) Unless the governing body determines that the operation would be a safety hazard or would unduly impede the flow of traffic; or

(b) If the operation of the vehicle will include operation on the state highway system established pursuant to chapter 408 of NRS, the Department of Transportation shall, upon request, issue a permit to operate the vehicle on a highway in that county, unless the Department of Transportation determines that the operation would be a safety hazard or would unduly impede the flow of traffic. A holder of a permit issued pursuant to this paragraph is not required to obtain a permit pursuant to paragraph (a) before operating the vehicle in accordance with the permit issued pursuant to this paragraph.

3. Before issuing a permit pursuant to subsection 2, the Department of Transportation or the governing body shall coordinate the issuance of the permit with each entity that will be affected by the issuance of the permit.

4. A governing body shall issue single-trip permits and annual permits pursuant to subsection 2 that are consistent, to the greatest extent practicable, with the regulations adopted by the Department of Transportation pursuant to subsection 5.

5. Except as otherwise provided in this section, the Department of Transportation with respect to highways under its jurisdiction and the governing body of a city or county with respect to roadways under its jurisdiction may adopt regulations providing for an annual permit or a permit for a single trip for a vehicle, or a vehicle with a load exceeding 102 inches in width, 14 feet in height or 70 feet in length, and limiting the movement of the vehicle to certain hours of the day, days of the week or routes considered necessary to protect public safety. If the Department of Transportation and a governing body of a city or county adopt regulations pursuant to this section, the regulations adopted by the governing body must be consistent, to the greatest extent practicable, with the regulations adopted by the Department of Transportation.

6. The Department of Transportation and each governing body specified in subsection 2 shall:

(a) Periodically meet with persons who represent industries that are affected by any regulations adopted by the Department of Transportation or the governing body relating to the issuance of permits pursuant to this section, including, but not limited to, regulations concerning fees for those permits;

(b) At each meeting specified in paragraph (a), review and consider the regulations specified in that paragraph and any proposed amendments to the regulations; and

(c) To the greatest extent practicable, ensure that the regulations are consistent.

7. The Department of Transportation and each governing body that issues a permit pursuant to subsection 2 shall, to the greatest extent practicable, establish an expedited procedure for issuing a permit for a vehicle or a vehicle with a load that does not exceed 15 feet in height or 110 feet in length:

(a) Within 1 working day after the Department of Transportation or the governing body receives a request for the permit, if the vehicle or the vehicle with a load for which the permit is submitted has a width of 144 inches or less; or

(b) Within 2 working days after the Department of Transportation or the governing body receives a request for the permit, if the vehicle or the vehicle with a load for which the permit is submitted has a width of more than 144 inches but not more than 168 inches.

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 473.

Bill read second time.

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

Amendment No. 404.

"SUMMARY—Makes various changes concerning the practice of interpreting and the practice of realtime captioning. (BDR 54-295)"

"AN ACT relating to interpreters; requiring the Office of Disability Services of the Department of Health and Human Services to regulate the practice of interpreting and the practice of realtime captioning; changing the name and membership of the Advisory Committee on Deaf and Hard of Hearing Persons; revising the provisions governing the appointment of an interpreter by a court, magistrate or other person presiding over a judicial or other proceeding; requiring that the surcharge imposed on certain telephone services be sufficient to cover ~~the~~ certain costs of the Office to regulate the practice of interpreting and the practice of realtime captioning; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the requirements for the qualification of persons who engage in the practice of interpreting or the practice of realtime captioning for the purpose of facilitating communication between persons who are deaf or whose hearing is impaired and other persons. (Chapter 656A of NRS) With limited exceptions, a person must hold some form of national certification before he is considered qualified to engage in those practices. (NRS 656A.100, 656A.400)

Sections 2-~~21~~ 25 of this bill require the Office of Disability Services of the Department of Health and Human Services to regulate the practice of interpreting and the practice of realtime captioning. Section 10 requires the Office to establish a registry of the interpreters and realtime captioning providers who are registered and make the registry available to the general public. Sections 11 and 12 require the Office to establish by regulation : (1) the level of education and professional training, experience and certification required for registration ~~;~~ ; and (2) ethical standards for interpreters and realtime captioning providers. Section 13 authorizes a person ~~who~~ to file a complaint with the Office if the person is dissatisfied with the services provided by an interpreter ~~to file a complaint with the Office~~ or realtime captioning provider or becomes aware that an interpreter or realtime captioning provider has committed an act that is grounds for disciplinary action. Section 14 requires that all money received by the Office must be deposited with the State Treasurer for credit to the Account for Services for Persons With Impaired Speech or Hearing created pursuant to NRS 426.295. Sections ~~19~~ 23 and ~~20~~ 24 provide for the registration of persons who wish to engage in the practice of interpreting and the practice of realtime captioning.

Under state and federal law, a person who is deaf or has a physical speaking impairment may be entitled to the appointment of an interpreter in certain judicial or legal proceedings. Existing law requires that the interpreter

must be certified to engage in the practice of interpreting in a legal setting. (NRS 50.050) Section ~~22~~ 26 of this bill replaces the requirement for certification with the requirement for registration in accordance with sections 2- ~~24~~ 25 of this bill. Section ~~22~~ 26 also provides that if a registered legal interpreter cannot be found or is otherwise unavailable, or if the appointment of a registered legal interpreter would cause a substantial delay in the proceeding, the person presiding over the proceeding may appoint a registered interpreter or any other interpreter under certain circumstances. Sections ~~27~~ 31, ~~33, 35-38~~ 35, 37, 39-42 and ~~42~~ 46 of this bill revise various other provisions in NRS which require the appointment of an interpreter in various legal settings to incorporate the changes made in section ~~22~~ 26.

Existing law imposes a surcharge on the bills of telephone and wireless customers in an amount that is sufficient to cover the costs incurred by the Office of Disability Services to provide various services to persons who are deaf or have severely impaired speech or hearing. (NRS 426.295) Section ~~44~~ 45 of this bill requires that the amount of the surcharge must also be sufficient to cover ~~the~~ *certain* costs incurred by the Office to regulate the practice of interpreting and the practice of realtime captioning.

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

Section 1. Chapter 656A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~15~~ 19, inclusive, of this act.

Sec. 2. *"Charter school" has the meaning ascribed to it in NRS 385.007.*

Sec. 3. *"Community setting" means any setting that is not an educational setting. The term includes, without limitation, a legal setting and a medical setting.*

Sec. 4. *"Educational setting" means a public school, private school or charter school in this State.*

Sec. 5. *"Legal setting" means:*

1. *A communication with a law enforcement officer, as defined in NRS 179B.070, that relates to a criminal investigation;*

2. *A communication with an attorney who is acting in his professional capacity;*

3. *A negotiation for a contract for which the estimated amount required to perform the contract is \$1,000 or more; or*

4. *A judicial proceeding, including, without limitation:*

(a) *A grand jury proceeding;*

(b) *A court proceeding;*

(c) *A pretrial examination, deposition, motion and related proceedings of like character; and*

(d) *The proceedings of an administrative agency.*

Sec. 6. *"Medical setting" means any communication between a provider of health care, as defined in NRS 629.031, and a patient or a person acting*

on behalf of the patient concerning the provision of health care to the patient.

Sec. 7. "Office" means the Office of Disability Services of the Department of Health and Human Services.

Sec. 8. "Private school" has the meaning ascribed to it in NRS 394.103.

Sec. 9. "Public school" has the meaning ascribed to it in NRS 385.007.

Sec. 10. The Office shall:

1. Establish a registry of persons who are registered with the Office to engage in the practice of interpreting or the practice of realtime captioning. The registry must include, without limitation:

(a) The name of the person and any other information prescribed by the Office; and

(b) If the person is registered to engage in the practice of interpreting, each professional classification in which he is registered to practice;

2. Make the registry available on an Internet website maintained by the Office; and

3. Provide a copy of the registry without charge to any person upon request.

Sec. 11. The Office shall, by regulation:

1. ~~Establish a tier-based system of professional classifications for the practice of interpreting in:~~

~~(a) An educational setting; and~~

~~(b) A community setting.~~

~~2. Prescribe for each professional classification ~~1-1~~ of interpreters:~~

(a) The level of education and professional training, experience and certification required to engage in the practice of interpreting in that classification.

(b) The authorized scope of practice, including, without limitation, any condition, restriction or other limitation imposed on a person who practices in that classification.

2. Establish ethical standards for persons who engage in the practice of interpreting, including, without limitation, standards for maintaining confidential communications between an interpreter and a person who receives his services.

Sec. 12. The Office shall, by regulation ~~1-1 prescribe~~ :

1. Prescribe the level of education and professional training, experience and certification required to engage in the practice of realtime captioning.

2. Establish ethical standards for persons who engage in the practice of realtime captioning, including, without limitation, standards for maintaining confidential communications between a realtime captioning provider and a person who receives his services.

Sec. 13. 1. A person who is dissatisfied with the services provided by a person who engages in the practice of interpreting or the practice of realtime captioning or becomes aware that any one or more of the grounds for initiating disciplinary action may exist as to a person who engages in the

practice of interpreting or the practice of realtime captioning may file a complaint with the Office.

2. The Office shall establish procedures for investigating and resolving a complaint filed pursuant to this section.

Sec. 14. Any money received by the Office pursuant to this chapter must be:

1. Deposited with the State Treasurer for credit to the Account for Services for Persons With Impaired Speech or Hearing created by NRS 426.295; and

2. Used by the Office to pay the costs incurred by the Office in carrying out the provisions of this chapter.

Sec. 15. The office shall adopt regulations to carry out the provisions of this chapter.

Sec. 16. The following acts, among others, constitute cause for disciplinary action:

1. Engaging in behavior that is contrary to the ethical standards set forth in the regulations of the Office.

2. Violation by an interpreter or realtime captioning provider of any of the provisions of this chapter or of any other law of this State or of the standards and other regulations adopted thereunder.

3. Aiding, abetting or permitting the commission of any illegal act.

4. Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada while discharging duties as an interpreter or realtime captioning provider.

5. Engaging in the practice of interpreting or the practice of realtime captioning without the skills required to meet the communication needs of the recipient of the service.

6. Engaging in unprofessional conduct as defined by the Office by regulation.

Sec. 17. 1. If an interpreter or realtime captioning provider has committed any act set forth in section 16 of this act, the Office may:

(a) Suspend or revoke the registration of the interpreter or realtime captioning provider;

(b) Refuse to renew the registration of the interpreter or realtime captioning provider;

(c) Impose upon the interpreter or realtime captioning provider a fine of not more than \$5,000 for each violation of this chapter;

(d) Require the interpreter or realtime captioning provider to pay restitution; or

(e) Take such other disciplinary action as the Office deems appropriate.

2. The Office may adopt regulations setting forth a schedule of fines for the purposes of paragraph (c) of subsection 1.

3. The Office shall adopt regulations setting forth a schedule of penalties for engaging in unprofessional conduct. The schedule of penalties must not exceed the penalties set forth in this section.

Sec. 18. 1. When a complaint is filed with the Office, it must be considered by a person designated by the Office. If it appears to the person designated by the Office that further proceedings are warranted, the person shall report the results of his investigation together with his recommendation to the Office in a manner which does not violate the right of the person charged in the complaint to due process in any later hearing on the complaint.

2. The Office shall promptly make a determination with respect to each complaint reported to it by the person designated by the Office and shall dismiss the complaint or proceed with disciplinary action pursuant to chapter 622A of NRS.

Sec. 19. 1. Except as otherwise provided in subsection 2, a complaint must not be filed against an interpreter or realtime captioning provider if 2 years or more have elapsed since the occurrence of the act or omission alleged as the ground for disciplinary action.

2. If the act or omission alleges fraud or misrepresentation, the complaint must be filed within 2 years after the discovery of the fraud or misrepresentation.

~~[Sec. 16.]~~ Sec. 20. NRS 656A.020 is hereby amended to read as follows:

656A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 656A.030 to 656A.065, inclusive, and sections 2 to 9, inclusive, of this act have the meanings ascribed to them in those sections.

~~[Sec. 17.]~~ Sec. 21. NRS 656A.030 is hereby amended to read as follows:

656A.030 "Interpreter" means a person who is ~~[qualified]~~ registered with the Office to engage in the practice of interpreting in this State pursuant to NRS 656A.100.

~~[Sec. 18.]~~ Sec. 22. NRS 656A.065 is hereby amended to read as follows:

656A.065 "Realtime captioning provider" means a person who is ~~[qualified]~~ registered with the Office to engage in the practice of realtime captioning in this State pursuant to NRS 656A.400.

~~[Sec. 19.]~~ Sec. 23. NRS 656A.100 is hereby amended to read as follows:

656A.100 1. ~~[Except as otherwise provided in this section, a]~~ A person who wishes to engage in the practice of interpreting in this State must ~~[~~

~~(a) Be at]~~ submit to the Office:

~~(a)~~ Proof that he is at least 18 years of age;

~~[(b) Have at least a high school diploma or a general equivalency diploma;~~

~~(c) Be capable of providing the type of interpreting services required for the person who is deaf or whose hearing is impaired; and~~

~~(d) Have:~~

~~(1) Been issued at least one of the following certificates by the Registry of Interpreters for the Deaf or its successor organization:~~

- ~~(I) Master Comprehensive Skills Certificate;~~
- ~~(II) Comprehensive Skills Certificate;~~
- ~~(III) Certificate of Interpretation;~~
- ~~(IV) Certificate of Transliteration;~~
- ~~(V) Legal Specialist Certificate; or~~
- ~~(VI) Oral Interpreting Certificate;~~

~~(2) Been certified by the National Association of the Deaf or its successor organization as having a level of proficiency in providing interpreting services at level 3, 4 or 5; or~~

~~(3) Passed the Cued Language Transliterator National Certification Examination administered by the Testing, Evaluation, and Certification Unit, Inc., or its successor organization and must hold a Transliteration Skills Certificate issued by the Testing, Evaluation, and Certification Unit, Inc., or its successor organization.~~

~~2.—A person who wishes to engage in the practice of interpreting in this State in a legal setting must comply with the requirements set forth in paragraphs (a), (b) and (c) of subsection 1 and must:~~

~~(a) Have been issued at least one of the certificates set forth in subparagraph (1) of paragraph (d) of subsection 1;~~

~~(b) Have been certified by the National Association of the Deaf or its successor organization as having a level of proficiency in providing interpreting services at level 4 or 5; or~~

~~(c) Have passed the Cued Language Transliterator National Certification Examination administered by the Testing, Evaluation, and Certification Unit, Inc., or its successor organization and must hold a Transliteration Skills Certificate issued by the Testing, Evaluation, and Certification Unit, Inc., or its successor organization.~~

~~3.—Except as otherwise provided in subsection 4, a person, including, without limitation, a teacher and a teacher's aide, who wishes to engage in the practice of interpreting in this State in a public school, including, without limitation, a charter school, or a private school must comply with the requirements set forth in paragraphs (a), (b) and (c) of subsection 1 and must:~~

~~(a) Comply with the requirements set forth in paragraph (d) of subsection 1; or~~

~~(b) Have completed the Educational Interpreter Performance Assessment administered by the Boys Town National Research Hospital or its successor organization and received a rating of his level of proficiency in providing interpreting services at level 4 or 5.~~

~~4.—A person who has not complied with the requirements set forth in paragraph (a) or (b) of subsection 3 may engage in the practice of interpreting in a public school, including, without limitation, a charter school, or a private school for not more than 3 years if:~~

~~(a) There is a demonstrated shortage of personnel who have complied with those requirements in the geographic area of this State in which the public school or private school is located;~~

~~(b) The school district, charter school or private school that hires a person pursuant to this subsection has made and continues to make a good faith effort to recruit and hire persons who have complied with the requirements set forth in paragraph (a) or (b) of subsection 3;~~

~~(c) The shortage of personnel described in paragraph (a) has precluded the school district, charter school or private school from employing the number of persons who have complied with the requirements set forth in paragraph (a) or (b) of subsection 3 as is necessary to satisfy the personnel requirements of the school district, charter school or private school; and~~

~~(d) The person hired by the school district, charter school or private school pursuant to this subsection makes satisfactory progress, as determined by the school district, charter school or private school, toward complying with the requirements set forth in paragraph (a) or (b) of subsection 3 during the period of his employment.~~

5.—As used in this section:

~~(a) "Charter school" has the meaning ascribed to it in NRS 385.007.~~

~~(b) "Legal setting" means:~~

~~(1) A communication with a law enforcement officer, as defined in NRS 179B.070, that relates to a criminal investigation;~~

~~(2) A communication with an attorney who is acting in his professional capacity;~~

~~(3) A negotiation for a contract for which the estimated amount required to perform the contract is \$1,000 or more; or~~

~~(4) A judicial proceeding, including, without limitation:~~

~~(I) A grand jury proceeding;~~

~~(II) A court proceeding;~~

~~(III) A pretrial examination, deposition, motion and related proceedings of like character; and~~

~~(IV) The proceedings of an administrative agency.~~

~~(e) "Public school" has the meaning ascribed to it in NRS 385.007.~~

~~(d) "Private school" has the meaning ascribed to it in NRS 394.103.]~~

~~(b) An application in the form prescribed by the Office;~~

~~(c) Proof that the applicant has complied with the requirements for education, training, experience and certification required for each professional classification of the practice of interpreting ~~for~~ pursuant to this section or prescribed by a regulation of the Office pursuant to section 11 of this act;~~

~~(d) If the applicant wishes to practice interpreting in a community setting as an apprentice level interpreter, proof:~~

~~(1) That the applicant possesses intermediate interpreting skills;~~

(2) Of current participation in a program of mentoring or an agreement to participate in a program of mentoring with an interpreter in a community setting other than an apprentice level interpreter; and

(3) Of ongoing participation in a training program for the professional development of interpreters;

(e) If the applicant wishes to practice interpreting in a community setting as a skilled interpreter, proof:

(1) That the applicant is certified as an interpreter by a nationally recognized public or private organization which is approved by the Office or possesses the skills necessary to practice interpreting at a skilled level in a community setting; and

(2) Of ongoing participation in a training program for the professional development of interpreters;

(f) If the applicant wishes to practice interpreting in a community setting as an advanced certified interpreter, proof:

(1) That the applicant is certified as an interpreter at an advanced level by a nationally recognized public or private organization which is approved by the Office or possesses the skills necessary to practice interpreting at an advanced level in a community setting; and

(2) Of ongoing participation in a training program for the professional development of interpreters;

(g) If the applicant wishes to practice interpreting in an educational setting as an apprentice level interpreter, proof:

(1) That the applicant has completed the Educational Interpreter Performance Assessment administered by a public or private organization which is approved by the Office and received a rating of his level of proficiency in providing interpreting services at least at level 3.0;

(2) Of current participation in a program of mentoring or an agreement to participate in a program of mentoring with an interpreter in an educational setting other than an apprentice level interpreter; and

(3) Of an individualized plan for professional development as an interpreter which includes, without limitation, specific goals for his professional development as an interpreter;

(h) If the applicant wishes to practice interpreting in an educational setting as an intermediate interpreter, proof:

(1) That the applicant has completed the Educational Interpreter Performance Assessment administered by a public or private organization which is approved by the Office and received a rating of his level of proficiency in providing interpreting services at least at level 3.1; and

(2) Of an individualized plan for professional development as an interpreter which includes, without limitation, specific goals for his professional development as an interpreter;

(i) If the applicant wishes to practice interpreting in an educational setting as an advanced interpreter, proof:

(1) That the applicant has completed the Educational Interpreter Performance Assessment administered by a public or private organization which is approved by the Office and received a rating of his level of proficiency in providing interpreting services at least at level 4.0;

(2) That the applicant possesses at least 4 years of experience practicing as an interpreter in a classroom; and

(3) Of an individualized plan for professional development as an interpreter which includes, without limitation, specific goals for his professional development as an interpreter;

(j) If the applicant wishes to obtain a supplemental registration specifically to practice interpreting in a legal setting or medical setting in addition to obtaining registration pursuant to paragraphs (d) to (i), inclusive, any information or evidence as prescribed by a regulation of the Office pursuant to section 12 of this act; and

(k) Any other information or evidence the Office may require to determine whether the applicant has complied with the requirements to engage in the practice of interpreting. ~~fr and~~

~~(e) A fee of not more than \$50 for each year of registration, as established by a regulation of the Office.~~

2. The Office may, for good cause shown, waive any requirement set forth in subsection 1.

3. An applicant must identify each professional classification of the practice of interpreting for which he requests registration.

~~fr~~ 4. The Office shall register:

(a) Register each applicant who complies with the applicable provisions of this section as an interpreter described in the applicable paragraph of subsection 1; and ~~issue~~

(b) Issue to the applicant proof of registration.

~~Sec. 20.~~ Sec. 24. NRS 656A.400 is hereby amended to read as follows:

656A.400 1. A person who wishes to engage in the practice of realtime captioning in this State must:

~~1. Be~~ submit to the Office:

(a) Proof that he is at least 18 years of age;

~~2. Have at least a high school diploma or a general equivalency diploma;~~

~~3. Be capable of providing the type of realtime captioning services required for persons who are deaf or whose hearing is impaired; and~~

~~4. Have:~~

~~(a) Been certified as a court reporter by the Certified Court Reporters' Board of Nevada pursuant to chapter 656 of NRS; or~~

~~(b) Been issued at least one of the following certifications by the National Court Reporters Association or its successor organization:~~

~~(1) Registered Professional Reporter;~~

~~(2) Certified Communication Access Realtime Translation Provider;~~

~~(3) Certified Broadcast Captioner; or~~

~~(4) Certified Realtime Reporter.]~~

(b) An application in the form prescribed by the Office;

(c) Proof that the applicant has complied with the requirements for education, training, experience and certification required for the practice of realtime captioning as prescribed by a regulation of the Office pursuant to section 12 of this act; and

(d) Any other information or evidence the Office may require to determine whether the applicant has complied with the requirements to engage in the practice of realtime captioning. ~~+~~ and

~~*(e) A fee of not more than \$50 for each year of registration, as established by a regulation of the Office.]*~~

2. The Office shall register each applicant who complies with the provisions of this section and issue to the applicant proof of registration.

~~[Sec. 21.]~~ Sec. 25. NRS 656A.800 is hereby amended to read as follows:

656A.800 1. ~~[It]~~ Except as otherwise provided by specific statute, it is unlawful for a person to:

(a) Engage in the practice of interpreting in this State;

(b) Hold himself out as certified or qualified to engage in the practice of interpreting in this State; or

(c) Use in connection with his name any title, words, letters or other designation intended to imply or designate that he is an interpreter,

↪ ~~[without first complying with the requirements set forth in]~~ unless he is registered with the Office pursuant to NRS 656A.100.

2. It is unlawful for a person to:

(a) Engage in the practice of realtime captioning in this State;

(b) Hold himself out as certified or qualified to engage in the practice of realtime captioning in this State; or

(c) Use in connection with his name any title, words, letters or other designation intended to imply or designate that he is a realtime captioning provider,

↪ ~~[without first complying with the requirements set forth in]~~ unless he is registered with the Office pursuant to NRS 656A.400.

3. A person who violates the provisions of subsection 1 or 2:

(a) Is guilty of a misdemeanor; and

(b) May be assessed a civil penalty of not more than \$5,000.

4. An action for the enforcement of a civil penalty assessed pursuant to this section may be brought in any court of competent jurisdiction by the district attorney of the appropriate county or the Attorney General.

5. Any civil penalty recovered pursuant to this section must be deposited with the State Treasurer for credit to the Account for Services for Persons with Impaired Speech or Hearing created by NRS 426.295.

6. *The Office shall report a violation of a provision of subsection 1 or 2 to the district attorney of the county in which the violation occurred or the Attorney General.*

~~[Sec. 22.]~~ Sec. 26. Chapter 50 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in this section, in any judicial or other proceeding in which the court, magistrate or other person presiding over the proceeding is required to appoint an interpreter for a person with a communications disability, the court, magistrate or other person presiding over the proceeding shall appoint a registered legal interpreter to interpret the proceeding to that person and to interpret the testimony of that person to the court, magistrate or other person presiding over the proceeding.*

2. *If a registered legal interpreter cannot be found or is otherwise unavailable, or if the appointment of a registered legal interpreter will cause a substantial delay in the proceeding, the court, magistrate or other person presiding over the proceeding may, after making a finding to that effect and conducting a voir dire examination of prospective interpreters, appoint a registered interpreter or any other interpreter that the court, magistrate or other person presiding over the proceeding determines is readily able to communicate with the person with a communications disability, translate the proceeding for him, and accurately repeat and translate the statements of the person with a communications disability to the court, magistrate or other person presiding over the proceeding.*

~~[Sec. 23.]~~ Sec. 27. NRS 50.050 is hereby amended to read as follows:

50.050 1. As used in NRS 50.050 to 50.053, inclusive, and section ~~227~~ 26 of this act, unless the context requires otherwise:

(a) "Interpreter" means a ~~person who is:~~

~~(1) Qualified to engage in the practice of interpreting in this State pursuant to subsection 2 of NRS 656A.100; and~~

~~(2) Readily able to communicate with a person with a disability, translate the proceedings for him, and accurately repeat and translate the statements of the person with a disability to the court or magistrate or other person presiding over the proceedings.] :~~

~~(1) Registered interpreter;~~

~~(2) Registered legal interpreter; or~~

~~(3) Person who is appointed as an interpreter pursuant to subsection 2 of section ~~227~~ 26 of this act.~~

(b) "Person with a communications disability" means a person who, because he is deaf ~~[-mute]~~ or has a physical speaking impairment, cannot readily understand or communicate in the English language or cannot understand the proceedings.

(c) "Registered interpreter" means a person registered with the Office of Disability Services of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting.

(d) "Registered legal interpreter" means a person registered with the Office of Disability Services of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in a legal setting.

2. In all judicial proceedings in which a person with a *communications* disability appears as a witness, the court, magistrate or other person presiding over the proceedings shall appoint an interpreter to interpret the proceedings to that person and to interpret the testimony of that person to the court, magistrate or other person presiding.

3. The court, magistrate or other person presiding over the proceedings shall fix a reasonable compensation for the services and expenses of the interpreter appointed pursuant to this section. If the judicial proceeding is civil in nature, the compensation of the interpreter may be taxed as costs and must not be charged as a public expense.

4. Claims against a county, municipality, this State or any agency thereof for the compensation of an interpreter in a criminal proceeding or other proceeding for which an interpreter must be provided at public expense must be paid in the same manner as other claims against the respective entities are paid. Payment may be made only upon the certificate of the judge, magistrate or other person presiding over the proceedings that the ~~qualified~~ interpreter has performed the services required and incurred the expenses claimed.

~~[Sec. 24.]~~ Sec. 28. NRS 50.051 is hereby amended to read as follows:

50.051 An interpreter must be appointed at public expense for a person with a *communications* disability who is a party to or a witness in a criminal proceeding.

~~[Sec. 25.]~~ Sec. 29. NRS 50.052 is hereby amended to read as follows:

50.052 1. If an interpreter appointed for a person with a *communications* disability is not effectively or accurately communicating with or on behalf of the person with a *communications* disability, and that fact becomes known to the person who appointed him, another interpreter must be appointed.

2. Unless otherwise agreed upon by the parties, a person may not be appointed as an interpreter of a person with a *communications* disability in a proceeding if he is:

(a) The spouse of the person with a *communications* disability or related to him; or

(b) Otherwise interested in the outcome of the proceeding or biased for or against one of the parties.

3. Whenever possible, a person with a *communications* disability must be given an interpreter of his choice or one of whom he approves.

~~[Sec. 26.]~~ Sec. 30. NRS 50.053 is hereby amended to read as follows:

50.053 1. Before undertaking his duties, the interpreter shall swear or affirm that he will make a true interpretation in an understandable manner to the person for whom he has been appointed, and that he will repeat the

statements of the person with a *communications* disability in the English language to the best of his ability.

2. While in the proper performance of his duties, an interpreter acts in the place of the person with a *communications* disability and to that extent has all of the rights and privileges of that person for purposes of the proceeding, including access to all relevant material.

~~[Sec. 27.]~~ Sec. 31. NRS 50.054 is hereby amended to read as follows:

50.054 1. Except as otherwise provided by a regulation of the court administrator adopted pursuant to NRS 1.510 and 1.520, a person shall not act as an interpreter in a proceeding if he is:

- (a) The spouse of a witness;
- (b) Otherwise related to a witness;
- (c) Biased for or against one of the parties; or
- (d) Otherwise interested in the outcome of the proceeding.

2. Before undertaking his duties, the interpreter shall swear or affirm that he will:

- (a) To the best of his ability, translate accurately to the witness, in the language of the witness, questions and statements addressed to the witness;
- (b) Make a true interpretation of the statements of the witness in an understandable manner; and
- (c) Repeat the statements of the witness in the English language to the best of his ability.

3. While in the proper performance of his duties, an interpreter has the same rights and privileges as the witness, including the right to examine all relevant material, but is not entitled to waive or exercise any of those rights or privileges on behalf of the witness.

4. As used in this section, "interpreter" means a person who is readily able to communicate with a person who speaks a language other than English and does not know the English language, translate the proceedings for him and accurately repeat and translate the statements of the person in a language other than English to the court, magistrate or other person presiding. The term does not include an interpreter for a person with a *communications* disability as that term is defined in NRS 50.050.

~~[Sec. 28.]~~ Sec. 32. NRS 171.1536 is hereby amended to read as follows:

171.1536 Upon the arrest of a person with a *communications* disability as defined in NRS 50.050, and before his interrogation or the taking of his statement, the peace officer in actual charge of the station, headquarters or other facility to which the person with a *communications* disability has been brought shall make an interpreter ~~[who is qualified to engage in the practice of interpreting in this State pursuant to subsection 2 of NRS 656A.100]~~ available at public expense to that person ~~[, subject to the provisions of NRS 50.052 and 50.053.]~~ in accordance with the provisions of NRS 50.050 to 50.053, inclusive, and section ~~227~~ 26 of this act.

~~[Sec. 29.]~~ Sec. 33. NRS 171.1538 is hereby amended to read as follows:

171.1538 1. The rights to interpretation and communication provided in NRS 171.1536 and 171.1537 may not be waived except knowingly and voluntarily by the person with a *communications* disability by a written statement indicating his desire not to be so assisted. At any time after arrest but before the termination of any custody, the person may retract his waiver by indicating his desire to be so assisted.

2. Unless there is a waiver under this section, there must be no interrogation or taking of the statement of a person with a *communications* disability without the assistance of an interpreter ~~[who is qualified to engage in the practice of interpreting in this State pursuant to subsection 2 of NRS 656A.100.]~~ in accordance with the provisions of NRS 50.050 to 50.053, inclusive, and section ~~227~~ 26 of this act.

~~[Sec. 30.]~~ Sec. 34. NRS 213.055 is hereby amended to read as follows:

213.055 An applicant or a witness at a hearing upon an application for clemency who is a person with a *communications* disability as defined in NRS 50.050 is entitled to the services of an interpreter at public expense ~~[subject to the provisions of NRS 50.052 and 50.053.]~~ in accordance with the provisions of NRS 50.050 to 50.053, inclusive, and section ~~227~~ 26 of this act. The interpreter must be ~~[-~~

1. ~~Qualified to engage in the practice of interpreting in this State pursuant to subsection 2 of NRS 656A.100; and~~

2. ~~Appointed]~~ appointed by the Governor or a member of the Board designated by him.

~~[Sec. 31.]~~ Sec. 35. NRS 213.128 is hereby amended to read as follows:

213.128 A prisoner, parolee or a witness at the hearing of a case who is a person with a *communications* disability as defined in NRS 50.050 is entitled to the services of an interpreter at public expense ~~[subject to the provisions of NRS 50.052 and 50.053.]~~ in accordance with the provisions of NRS 50.050 to 50.053, inclusive, and section ~~227~~ 26 of this act. The interpreter must be ~~[-~~

1. ~~Qualified to engage in the practice of interpreting in this State pursuant to subsection 2 of NRS 656A.100; and~~

2. ~~Appointed]~~ appointed by the Chairman of the Board or other person who presides at the hearing.

~~[Sec. 32.]~~ Sec. 36. NRS 232.320 is hereby amended to read as follows:

232.320 1. Except as otherwise provided in subsection 3, the Director:

(a) Shall appoint, with the consent of the Governor, administrators of the divisions of the Department, who are respectively designated as follows:

- (1) The Administrator of the Aging Services Division;
- (2) The Administrator of the Health Division;

(3) The Administrator of the Division of Welfare and Supportive Services;

(4) The Administrator of the Division of Child and Family Services; and

(5) The Administrator of the Division of Health Care Financing and Policy.

(b) Shall administer, through the divisions of the Department and the Office of Disability Services, the provisions of chapters 63, 424, 425, 426A, 427A, 432A to 442, inclusive, 446 to 450, inclusive, ~~and 458A and 656A~~ of NRS, NRS 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, 422.580, 426.205 to 426.295, inclusive, 432.010 to 432.133, inclusive, 444.003 to 444.430, inclusive, and 445A.010 to 445A.055, inclusive, and all other provisions of law relating to the functions of the divisions of the Department and the Office of Disability Services, but is not responsible for the clinical activities of the Health Division or the professional line activities of the other divisions or the Office of Disability Services.

(c) Shall, after considering advice from agencies of local governments and nonprofit organizations which provide social services, adopt a master plan for the provision of human services in this State. The Director shall revise the plan biennially and deliver a copy of the plan to the Governor and the Legislature at the beginning of each regular session. The plan must:

(1) Identify and assess the plans and programs of the Department for the provision of human services, and any duplication of those services by federal, state and local agencies;

(2) Set forth priorities for the provision of those services;

(3) Provide for communication and the coordination of those services among nonprofit organizations, agencies of local government, the State and the Federal Government;

(4) Identify the sources of funding for services provided by the Department and the allocation of that funding;

(5) Set forth sufficient information to assist the Department in providing those services and in the planning and budgeting for the future provision of those services; and

(6) Contain any other information necessary for the Department to communicate effectively with the Federal Government concerning demographic trends, formulas for the distribution of federal money and any need for the modification of programs administered by the Department.

(d) May, by regulation, require nonprofit organizations and state and local governmental agencies to provide information to him regarding the programs of those organizations and agencies, excluding detailed information relating to their budgets and payrolls, which he deems necessary for his performance of the duties imposed upon him pursuant to this section.

(e) Has such other powers and duties as are provided by law.

2. Notwithstanding any other provision of law, the Director, or his designee, is responsible for appointing and removing subordinate officers and employees of the Department, other than:

(a) The Administrator of the Division of Mental Health and Developmental Services who is appointed pursuant to subsection 3;

(b) The Executive Director of the Nevada Indian Commission who is appointed pursuant to NRS 233A.055; and

(c) The State Public Defender of the Office of State Public Defender who is appointed pursuant to NRS 180.010.

3. The Governor shall appoint the Administrator of the Division of Mental Health and Developmental Services.

~~[Sec. 33.]~~ Sec. 37. NRS 233B.1235 is hereby amended to read as follows:

233B.1235 A witness during his testimony at a hearing of a contested case, who is a person with a *communications* disability as defined in NRS 50.050, is entitled to the services of an interpreter at public expense ~~[- subject to the provisions of NRS 50.052 and 50.053.]~~ *in accordance with the provisions of NRS 50.050 to 50.053, inclusive, and section ~~[22]~~ 26 of this act.* The interpreter must be ~~[-~~

1. ~~Qualified to engage in the practice of interpreting in this State pursuant to subsection 2 of NRS 656A.100; and~~

2. ~~Appointed]~~ *appointed* by the person who presides at the hearing.

~~[Sec. 34.]~~ Sec. 38. NRS 391.019 is hereby amended to read as follows:

391.019 1. Except as otherwise provided in NRS 391.027, the Commission:

(a) Shall adopt regulations:

(1) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of ~~[such]~~ *those* licenses.

(2) Identifying fields of specialization in teaching which require the specialized training of teachers.

(3) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization.

(4) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

(5) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being ~~[qualified]~~ *registered with the Office of Disability Services of the Department of Health and Human Services pursuant to NRS 656A.100* to engage in the practice of interpreting ~~[pursuant to subsection 3 of NRS 656A.100.]~~

~~(6) Except as otherwise authorized by subsection 4 of NRS 656A.100, requiring]~~ *in an educational setting.*

~~(6) Requiring teachers and other educational personnel to [satisfy the qualifications set forth in subsection 3 of NRS 656A.100] be registered with~~

the Office of Disability Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

(I) Provide instruction or other educational services; and

(II) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

(7) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

(I) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

(II) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

(8) Requiring an applicant for a special qualifications license to:

(I) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

(II) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the master's degree or doctoral degree held by the applicant.

(9) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the master's degree or doctoral degree held by that person.

(10) Providing for the issuance of a license to teach to a person who:

(I) Holds a graduate degree from an accredited college or university in the field for which he will be providing instruction;

(II) Is not licensed to teach public school in another state;

(III) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

(IV) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of his employment as a teacher with a school district or charter school.

➡ An applicant for licensure pursuant to this subparagraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

(b) May adopt such other regulations as it deems necessary for its own government or to carry out its duties.

2. Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the Commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

3. A person who is licensed pursuant to subparagraph (7) or (10) of paragraph (a) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if he is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

~~[Sec. 35.]~~ Sec. 39. NRS 391.31925 is hereby amended to read as follows:

391.31925 The licensed employee or a witness at a hearing under NRS 391.311 to 391.3196, inclusive, who is a person with a *communications* disability as defined in NRS 50.050, is entitled to the services of an interpreter at public expense ~~[subject to the provisions of NRS 50.052 and 50.053.]~~ *in accordance with the provisions of NRS 50.050 to 50.053, inclusive, and section ~~222~~ 26 of this act.* The interpreter must be ~~[-~~

~~1. Qualified to engage in the practice of interpreting in this State pursuant to subsection 2 of NRS 656A.100; and~~

~~2. Appointed] appointed~~ by the hearing officer.

~~[Sec. 36.]~~ Sec. 40. NRS 396.324 is hereby amended to read as follows:

396.324 The person who is the subject of a disciplinary hearing under this chapter or who is a witness at that hearing, and who is a person with a *communications* disability as defined in NRS 50.050, is entitled to the services of an interpreter at public expense ~~[subject to the provisions of NRS 50.052 and 50.053.]~~ *in accordance with the provisions of NRS 50.050 to 50.053, inclusive, and section ~~222~~ 26 of this act.* The interpreter must be ~~[-~~

~~1. Qualified to engage in the practice of interpreting in this State pursuant to subsection 2 of NRS 656A.100; and~~

~~2. Appointed] appointed~~ by the person who presides at the hearing.

~~[Sec. 37.]~~ Sec. 41. NRS 422.278 is hereby amended to read as follows:

422.278 Any person who is:

1. The subject of a hearing conducted under the authority of the Division;
or

2. A witness at that hearing,

↪ and who is a person with a *communications* disability as defined in NRS 50.050, is entitled to the services of an interpreter at public expense ~~[- subject to the provisions of NRS 50.052 and 50.053,] in accordance with the provisions of NRS 50.050 to 50.053, inclusive, and section ~~221~~ 26 of this act.~~ The interpreter must be ~~[qualified to engage in the practice of interpreting in this State pursuant to subsection 2 of NRS 656A.100 and must be]~~ appointed by the person who presides at the hearing.

~~[Sec. 38.]~~ Sec. 42. NRS 422A.290 is hereby amended to read as follows:

422A.290 Any person who is:

1. The subject of a hearing conducted under the authority of the Division;
or

2. A witness at that hearing,

↪ and who is a person with a *communications* disability as defined in NRS 50.050, is entitled to the services of an interpreter at public expense ~~[- subject to the provisions of NRS 50.052 and 50.053,] in accordance with the provisions of NRS 50.050 to 50.053, inclusive, and section ~~221~~ 26 of this act.~~ The interpreter must be ~~[qualified to engage in the practice of interpreting in this State pursuant to subsection 2 of NRS 656A.100 and must be]~~ appointed by the person who presides at the hearing.

~~[Sec. 39.]~~ Sec. 43. NRS 426.235 is hereby amended to read as follows:

426.235 The Office of Disability Services is hereby created within the Department. The Office shall:

1. Provide access to information about services or programs for persons with disabilities that are available in this State.

2. Work with persons with disabilities, persons interested in matters relating to persons with disabilities and state and local governmental agencies in:

(a) Developing and improving policies of this State concerning programs or services for persons with disabilities, including, without limitation, policies concerning the manner in which complaints relating to services provided pursuant to specific programs should be addressed; and

(b) Making recommendations concerning new policies or services that may benefit persons with disabilities.

3. Serve as a liaison between state governmental agencies that provide services or programs to persons with disabilities to facilitate communication and the coordination of information and any other matters relating to services or programs for persons with disabilities.

4. Serve as a liaison between local governmental agencies in this State that provide services or programs to persons with disabilities to facilitate communication and the coordination of information and any other matters relating to services or programs for persons with disabilities. To inform local governmental agencies in this State of services and programs of other local

governmental agencies in this State for persons with disabilities pursuant to this subsection, the Office shall:

(a) Provide technical assistance to local governmental agencies, including, without limitation, assistance in establishing an electronic network that connects the Office to each of the local governmental agencies that provides services or programs to persons with disabilities;

(b) Work with counties and other local governmental entities in this State that do not provide services or programs to persons with disabilities to establish such services or programs; and

(c) Assist local governmental agencies in this State to locate sources of funding from the Federal Government and other private and public sources to establish or enhance services or programs for persons with disabilities.

5. Administer the following programs in this State that provide services for persons with disabilities:

(a) The program established pursuant to NRS 426.265, 426.275 and 426.285 to provide financial assistance to persons with physical disabilities;

(b) The programs established pursuant to chapter 426A of NRS to obtain information concerning traumatic brain injuries and provide services to persons with traumatic brain injuries;

(c) The program established pursuant to NRS 426.295 to provide devices for telecommunication to deaf persons and persons with impaired speech or hearing;

(d) Any state program for persons with developmental disabilities established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq.;

(e) Any state program for independent living established pursuant to 29 U.S.C. §§ 796 et seq., with the Rehabilitation Division of the Department of Employment, Training and Rehabilitation acting as the designated state unit, as that term is defined in 34 C.F.R. § 364.4; and

(f) Any state program established pursuant to the Assistive Technology Act of 1998, 29 U.S.C. §§ 3001 et seq.

6. Provide information to persons with disabilities on matters relating to the availability of housing for persons with disabilities and identify sources of funding for new housing opportunities for persons with disabilities.

7. Ensure that state and local governmental agencies comply with the provisions of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.

8. Before establishing policies or making decisions that will affect the lives of persons with disabilities, consult with persons with disabilities and members of the public in this State through the use of surveys, focus groups, hearings or councils of persons with disabilities to receive:

(a) Meaningful input from persons with disabilities regarding the extent to which such persons are receiving services, including, without limitation, services described in their individual service plans, and their satisfaction with those services; and

(b) Public input regarding the development, implementation and review of any programs or services for persons with disabilities.

9. Publish a biennial report which:

(a) Reviews the current and projected capacity of:

(1) Services available to persons with disabilities pursuant to the State Plan for Medicaid;

(2) Waivers to the State Plan for Medicaid for the provision of home and community-based services in this State;

(3) Services available to persons with disabilities from counties and other local governmental entities in this State; and

(4) Any other services available to persons with disabilities from any governmental or nonprofit agency;

(b) Identifies the costs of existing and new services in the community for persons with disabilities;

(c) Provides a strategy for the expanding or restructuring of services in the community for persons with disabilities that is consistent with the need for such expansion or restructuring;

(d) Recommends plans to provide services or programs for persons with disabilities by using the data from any waiting lists of persons seeking such services or programs;

(e) Reports the outcomes of persons with disabilities who have received services for persons with disabilities in this State; and

(f) Reports the progress of the Office in carrying out the strategic planning goals for persons with disabilities identified pursuant to chapter 541, Statutes of Nevada 2001.

10. Provide on or before January 15 of each year a report to the Governor and on or before January 15 of each odd-numbered year a report to the Legislature, including, without limitation:

(a) A summary of the activities of the Office for the preceding fiscal year or 2 preceding fiscal years, if the report is provided to the Legislature;

(b) Documentation of significant problems affecting persons with disabilities when accessing public services, if the Office is aware of any such problems;

(c) A summary and analysis of the trends in the systems of care and services available for persons with disabilities; ~~and~~

(d) *A summary and analysis of the status of the practice of interpreting and the practice of realtime captioning, including, without limitation, the number of persons engaged in the practice of interpreting in an educational setting in each professional classification established ~~by the Office~~ pursuant to ~~section 11 of this act~~ NRS 656A.100 and the number of persons engaged in the practice of realtime captioning in an educational setting; and*

(e) Recommendations for improving the ability of the State of Nevada to provide services to persons with disabilities and advocate for the rights of persons with disabilities.

~~[Sec. 40.]~~ Sec. 44. NRS 426.255 is hereby amended to read as follows:

426.255 1. The ~~[Advisory]~~ Committee on *Communication Services for Deaf and Hard of Hearing Persons and Persons With Speech Disabilities* is hereby created in the Office. The ~~[Advisory]~~ Committee consists of 11 people appointed by the Director of the Department. The Director shall appoint to the ~~[Advisory]~~ Committee:

(a) One member who is employed by the Department and who participates in the administration of the program of this State which provides services to persons with *communications* disabilities which affect their ability to communicate;

(b) One person who is a member of the Nevada Association of the Deaf;

(c) ~~[One member who is hard of hearing;~~

~~(d) One representative of educators of persons who are deaf and hard of hearing;~~

~~(e) One member who is professionally qualified in the field of deafness;~~

~~[(f) One member whose speech is impaired;~~

~~(g) (d) The Executive Director of the Nevada Telecommunications Association;~~

~~(h) Two representatives of the deaf and hard of hearing centers operated by this State, who are ex officio members; and~~

~~(i) Two representatives of the program to purchase, maintain, repair and distribute devices for telecommunication developed and administered pursuant to NRS 426.295, who are ex officio members.] or, in the event of its dissolution, a member who represents the telecommunications industry;~~

(e) One member who is a consumer of telecommunications relay services;

(f) One member who is a consumer of Communication Access Realtime Translation or realtime captioning;

(g) One member who is a consumer of services provided by a person engaged in the practice of interpreting;

(h) One nonvoting member who is registered with the Office pursuant to NRS 656A.100 to engage in the practice of interpreting in a community setting and holds a certificate issued by the Registry of Interpreters for the Deaf, Inc., or its successor organization;

(i) One nonvoting member who is registered with the Office pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting and has completed the Educational Interpreter Performance Assessment administered by the Boys Town National Research Hospital, or its successor organization, and received a rating of his level of proficiency in providing interpreting services at level 4 or 5;

(j) One nonvoting member who is registered with the Office pursuant to NRS 656A.400 to engage in the practice of realtime captioning; and

(k) One member who represents educators in this State and has knowledge concerning the provision of communication services to persons with

communications disabilities in elementary, secondary and postsecondary schools and the laws concerning the provision of those services.

2. After the initial term, the term of each member is 3 years. A member may be reappointed.

3. If a vacancy occurs during the term of a member, the Director of the Department shall appoint a person similarly qualified to replace that member for the remainder of the unexpired term.

4. The ~~{Advisory}~~ Committee shall:

(a) At its first meeting and annually thereafter, elect a Chairman from among its voting members; and

(b) Meet at the call of the Director of the Department, the Chairman or a majority of its members as is necessary to carry out its responsibilities.

5. A majority of the voting members of the ~~{Advisory}~~ Committee constitutes a quorum for the transaction of business, and a majority of the voting members of a quorum present at any meeting is sufficient for any official action taken by the ~~{Advisory}~~ Committee.

6. Members of the ~~{Advisory}~~ Committee serve without compensation, except that each member is entitled, while engaged in the business of the ~~{Advisory}~~ Committee, to the per diem allowance and travel expenses provided for state officers and employees generally.

7. A member of the ~~{Advisory}~~ Committee 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}~~ Committee and perform any work necessary to carry out the duties of the ~~{Advisory}~~ Committee 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}~~ Committee to make up the time he is absent from work to carry out his duties as a member of the ~~{Advisory}~~ Committee or use annual vacation or compensatory time for the absence.

8. The ~~{Advisory}~~ Committee may:

(a) Make recommendations to the Director of the Department and the Office concerning the establishment and operation of programs for persons with *communications* disabilities which affect their ability to communicate;

(b) Recommend to the Director of the Department and the Office any proposed legislation concerning persons with *communications* disabilities which affect their ability to communicate; and

(c) Collect information concerning persons with *communications* disabilities which affect their ability to communicate.

9. *The Committee shall make recommendations to the Office concerning the practice of interpreting and the practice of realtime captioning, including, without limitation, the adoption of regulations to carry out the provisions of chapter 656A of NRS.*

10. As used in this section:

(a) ~~["Person who is deaf" means a person who is not able to process information aurally and whose primary means of communication is visual.~~

(b) ~~"Person who is hard of hearing" means a person:~~

(1) ~~Who has a hearing deficit;~~

(2) ~~Who is able to process information aurally with or without the use of a hearing aid or any other device that enhances the ability of a person to hear; and~~

(3) ~~Whose primary means of communication may be visual.~~

(e) ~~"Person whose speech is impaired" means a person who has difficulty using his voice to communicate.] "Practice of interpreting" has the meaning ascribed to it in NRS 656A.060.~~

(b) *"Practice of realtime captioning" has the meaning ascribed to it in NRS 656A.062.*

(c) *"Telecommunications relay services" has the meaning ascribed to it in 47 C.F.R. § 64.601.*

~~[Sec. 41.]~~ Sec. 45. NRS 426.295 is hereby amended to read as follows:

426.295 1. The Office shall develop and administer a program whereby:

(a) Any person who is a customer of a telephone company which provides service through a local exchange or a customer of a company that provides wireless phone service and who is certified by the Office to be deaf or to have severely impaired speech or hearing may obtain a device for telecommunication capable of serving the needs of such persons at no charge to the customer beyond the rate for basic service; and

(b) Any person who is deaf or has severely impaired speech or hearing may communicate by telephone, including, without limitation, a wireless phone, with other persons through a dual-party relay system.

➡ The program must be approved by the Public Utilities Commission of Nevada.

2. A surcharge is hereby imposed on each access line of each customer to the local exchange of any telephone company providing such lines in this State and on each personal wireless access line of each customer of any company that provides wireless phone services in this State which is sufficient to ~~cover~~ :

(a) ~~Cover~~ the costs of the program ~~and to fund~~ ;

(b) ~~Fund~~ the deaf and hard of hearing centers operated by this State ~~[]~~ ; and

(c) *Cover the costs incurred by the Office to carry out the provisions of chapter 656A of NRS that are not covered by ~~[the fees received by the Office pursuant to NRS 656A.100 and 656A.400 and] the civil penalties received by the Office pursuant to NRS 656A.800.~~*

➡ The Commission shall establish by regulation the amount to be charged. Those companies shall collect the surcharge from their customers and

transfer the money collected to the Commission pursuant to regulations adopted by the Commission.

3. The Account for Services for Persons With Impaired Speech or Hearing is hereby created within the State General Fund and must be administered by the Office. Any money collected from the surcharge imposed pursuant to subsection 2 must be deposited in the State Treasury for credit to the Account. The money in the Account may be used only:

(a) For the purchase, maintenance, repair and distribution of the devices for telecommunication, including the distribution of devices to state agencies and nonprofit organizations;

(b) To establish and maintain the dual-party relay system;

(c) To reimburse telephone companies and companies that provide wireless phone services for the expenses incurred in collecting and transferring to the Commission the surcharge imposed by the Commission;

(d) For the general administration of the program developed and administered pursuant to subsection 1;

(e) To train persons in the use of the devices; ~~and~~

(f) To fund the deaf and hard of hearing centers operated by this State ~~[-]~~ ;
and

(g) *To cover the costs incurred by the Office to carry out the provisions of chapter 656A of NRS that are not covered by ~~the fees received by the Office pursuant to NRS 656A.100 and 656A.400 and~~ the civil penalties received by the Office pursuant to NRS 656A.800.*

4. For the purposes of this section:

(a) "Device for telecommunication" means a device which is used to send messages through the telephone system, including, without limitation, the wireless phone system, which visually displays or prints messages received and which is compatible with the system of telecommunication with which it is being used.

(b) "Dual-party relay system" means a system whereby persons who have impaired speech or hearing, and who have been furnished with devices for telecommunication, may relay communications through third parties to persons who do not have access to such devices.

~~[Sec. 42.]~~ Sec. 46. NRS 463.342 is hereby amended to read as follows:

463.342 Any person who is the subject of a hearing conducted under the provisions of this chapter, or who is a witness at that hearing, and who is a person with a *communications* disability as defined in NRS 50.050, is entitled to the services of an interpreter at public expense ~~[- subject to the provisions of NRS 50.052 and 50.053.]~~ *in accordance with the provisions of NRS 50.050 to 50.053, inclusive, and section ~~[22]~~ 26 of this act.* The interpreter must be ~~[-~~

~~1.—Qualified to engage in the practice of interpreting in this State pursuant to subsection 2 of NRS 656A.100; and~~

~~2.—Appointed]~~ *appointed by the person who presides at the hearing.*

~~[Sec. 43.]~~ Sec. 47. NRS 615.200 is hereby amended to read as follows:

615.200 The Bureau may:

1. Enter into reciprocal agreements with other states, which, for this purpose, may include the District of Columbia, Puerto Rico, the Virgin Islands and Guam, to provide for the vocational rehabilitation of individuals within the states concerned;

2. Establish or construct rehabilitation facilities and workshops and make grants to, or contracts or other arrangements with, public and other nonprofit organizations for the establishment of workshops and rehabilitation facilities;

3. Operate facilities for carrying out the purposes of this chapter;

4. In matters relating to vocational rehabilitation:

(a) Conduct research, studies, investigations and demonstrations and make reports;

(b) Provide training and instruction, including, without limitation, the establishment and maintenance of such research fellowships and traineeships with such stipends and allowances as may be deemed necessary;

(c) Disseminate information; and

(d) Render technical assistance; *and*

5. Provide for the establishment, supervision, management and control of small business enterprises to be operated by severely handicapped persons where their operation will be improved through the management and supervision of the Bureau. ~~}; and~~

~~6. Maintain a list of persons who are qualified to engage in the practice of interpreting in this state pursuant to NRS 656A.100 to serve as interpreters for handicapped persons and shall make any such list available without charge to persons who request it.]~~

~~[Sec. 44.]~~ Sec. 48. 1. Not later than October 1, 2008, the Office of Disability Services of the Department of Health and Human Services shall, by regulation, establish:

(a) The ~~[tier-based system of professional classifications]~~ authorized scope of practice, level of education and the professional training, experience and certification for persons who engage in the practice of interpreting; ~~[required by section 11 of this act.]~~ and

(b) The level of education and the professional training, experience and certification for persons who engage in the practice of realtime captioning required by section 12 of this act.

2. The Office shall, in establishing the ~~[tier-based system required by section 11 of this act.]~~ authorized scope of practice, level of education and the professional training, experience and certification for persons who engage in the practice of interpreting, consider the recommendations submitted to the Legislative Committee on Persons with Disabilities created pursuant to NRS 218.53791 by the advisory committee to the Legislative Committee on Persons With Disabilities created pursuant to NRS 218.53796.

~~[Sec. 45.]~~ *Sec. 49.* 1. The terms of office of the members of the Advisory Committee on Deaf and Hard of Hearing Persons created by NRS 426.255 who were appointed pursuant to paragraphs (c), (d), (f), (h) and (i) of subsection 1 of NRS 426.255 expire on ~~[July 1, 2007.]~~ the date of passage and approval of this act.

2. As soon as practicable on or after ~~[July 1, 2007.]~~ the date of passage and approval of this act. the Director of the Department of Health and Human Services shall, as required by NRS 426.255, as amended by section ~~[40.]~~ 44 of this act, appoint the members to the Committee on Communication Services for Deaf and Hard of Hearing Persons and Persons With Speech Disabilities.

3. Notwithstanding the provisions of NRS 426.255, as amended by section ~~[40.]~~ 44 of this act, the members who the Director is required to appoint to the Committee pursuant to:

(a) Paragraph (h) of subsection 1 of NRS 426.255, as amended by section ~~[40.]~~ 44 of this act, must be an interpreter who holds a certificate issued by the Registry of Interpreters for the Deaf, Inc., or its successor organization, and is qualified to engage in the practice of interpreting in this State pursuant to NRS 656A.100 on ~~[July 1, 2007.]~~ the date of passage and approval of this act.

(b) Paragraph (i) of subsection 1 of NRS 426.255, as amended by section ~~[40.]~~ 44 of this act, must be an interpreter who:

(1) Has completed the Educational Interpreter Performance Assessment administered by the Boys Town National Research Hospital, or its successor organization;

(2) Has received a rating of his level of proficiency in providing interpreting services at level 4 or 5; and

(3) Is qualified to engage in the practice of interpreting in this State pursuant to NRS 656A.100 on ~~[July 1, 2007.]~~ the date of passage and approval of this act.

(c) Paragraph (j) of subsection 1 of NRS 426.255, as amended by section ~~[40.]~~ 44 of this act, must be an interpreter who is qualified to engage in the practice of realtime captioning in this State pursuant to NRS 656A.400 on ~~[July 1, 2007.]~~ the date of passage and approval of this act.

Sec. 50. Notwithstanding the provisions of NRS 656A.100, as amended by section 23 of this act, a person who wishes to register with the Office of Disability Services of the Department of Health and Human Services as an apprentice level interpreter in an educational setting and who is employed as an interpreter in an educational setting on the date of passage and approval of this act is not required to comply with the requirements of subparagraph (1) of paragraph (g) of subsection 1 of NRS 656A.100, as amended by section 23 of this act.

~~[Sec. 46.]~~ *Sec. 51.* Notwithstanding the provisions of NRS 656A.800, as amended by section ~~[21.]~~ 25 of this act, a person who engages in the practice of interpreting or the practice of realtime captioning in this State is

not required to register with the Office of Disability Services of the Department of Health and Human Services before October 1, 2008.

~~[Sec. 47.]~~ Sec. 52. This act becomes effective:

1. ~~[On July 1, 2007,]~~ Upon passage and approval, for the purposes of:

(a) Adopting regulations by the Office of Disability Services of the Department of Health and Human Services;

(b) Appointing members to the Committee on Communication Services for Deaf and Hard of Hearing Persons and Persons With Speech Disabilities created by NRS 426.255, as amended by section ~~[40]~~ 44 of this act; and

(c) Performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On October 1, 2008, for all other purposes.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 543.

Bill read second time.

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

Amendment No. 393.

"SUMMARY—Establishes the practice of ~~[behavioral health]~~ clinical professional counseling. (BDR 54-308)"

"AN ACT relating to counseling; establishing the practice of ~~[behavioral health]~~ clinical professional counseling; creating the Board of ~~[Examiners for Behavioral Health]~~ Clinical Professional Counseling; ~~[abolishing the Board of Examiners for Marriage and Family Therapists and the Board of Examiners for Alcohol, Drug and Gambling Counselors and transferring their duties and powers to the Board of Examiners for Behavioral Health Counseling; establishing the practice of professional counseling;]~~ providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~† Under existing law, the practice of marriage and family therapy is licensed and regulated by the Board of Examiners for Marriage and Family Therapists. (Chapter 641A of NRS) The Board of Examiners for Alcohol, Drug and Gambling Counselors licenses, certifies and regulates the practice of alcohol and drug abuse counseling and gambling counseling. (Chapter 641C of NRS)]~~

This bill establishes the practice of ~~[behavioral health]~~ clinical professional counseling and creates the Board of ~~[Examiners for Behavioral Health]~~ Clinical Professional Counseling to license and regulate the practice. ~~[This bill abolishes the Board of Examiners for Marriage and Family Therapists and the Board of Examiners for Alcohol, Drug and Gambling Counselors and transfers their duties and powers to the Board of Examiners]~~

~~for Behavioral Health Counseling. This bill establishes the practice of professional counseling as a practice within the practice of behavioral health counseling.]~~

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

Section 1. Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 68, inclusive, of this act.

Sec. 2. *The practice of ~~behavioral health~~ clinical professional counseling is hereby declared a learned profession, profoundly affecting public safety and welfare and charged with the public interest, and therefore subject to protection and regulation by the State.*

Sec. 3. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 18, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. ~~["Alcohol and drug abuse counselor" means a person who describes himself or his services to the public by any title or description which incorporates the term "alcohol and drug abuse counselor" and under such a title offers to provide or provides services to a person.] (Deleted by amendment.)~~

Sec. 5. *"Approved supervisor" means a licensee who is approved by the Board to supervise a person who is acquiring the supervised experience in ~~behavioral health~~ clinical professional counseling that is required for licensure ~~for certification~~ pursuant to this chapter.*

Sec. 6. *"Board" means the Board of ~~Examiners for Behavioral Health~~ Clinical Professional Counseling.*

Sec. 6.5. *"Clinical professional counselor" means a person who holds himself out as a person qualified to engage in clinical professional counseling or a person who offers to provide or provides clinical professional counseling services.*

Sec. 7. ~~["Certificate" means a certificate issued by the Board pursuant to this chapter to a person who is certified as an alcohol and drug abuse counselor, an alcohol and drug abuse counselor intern, a detoxification technician, a problem gambling counselor or a problem gambling counselor intern.] (Deleted by amendment.)~~

Sec. 8. *"License" means a license issued by the Board pursuant to this chapter to practice as a ~~drug and alcohol abuse counselor, marriage and family therapist or~~ clinical professional counselor. The term includes a provisional license ~~as an intern.~~*

Sec. 9. *"Licensee" means a person who holds a license issued by the Board pursuant to this chapter.*

Sec. 10. ~~["Marriage and family therapist" means a person who describes himself or his services to the public by any title or description which incorporates the term "marriage and family therapist" or "marriage~~

~~and family counselor" and under such a title offers to provide or provides services to any person.] (Deleted by amendment.)~~

Sec. 11. ~~["Practice of behavioral health counseling" means alcohol and drug abuse counseling, marriage and family therapy, problem gambling counseling and professional counseling.] (Deleted by amendment.)~~

Sec. 12. ~~["Practice of counseling alcohol and drug abusers" means the application of counseling to reduce or eliminate the habitual use of alcohol or other drugs, other than any maintenance dosage of a narcotic or habit forming drug administered pursuant to chapter 453 of NRS.] (Deleted by amendment.)~~

Sec. 13. ~~["Practice of counseling problem gamblers" means the application of counseling to reduce or eliminate problem gambling.] (Deleted by amendment.)~~

Sec. 14. ~~["Practice of marriage and family therapy" means the application of established principles of learning, motivation, perception, thinking, emotional, marital and sexual relationships and adjustments by persons trained in psychology, social work, psychiatry or marriage and family therapy. The application of those principles includes:~~

~~1. Diagnosis, therapy, treatment, counseling and the use of psychotherapeutic measures with persons or groups with adjustment problems in the areas of marriage, family or personal relationships.~~

~~2. Conducting research concerning problems relating to marital relationships and human behavior.~~

~~3. Consultation with other persons engaged in the practice of marriage and family therapy if the consultation is determined by the Board to include the application of any of those principles.] (Deleted by amendment.)~~

Sec. 15. "Practice of clinical professional counseling" means the provision of treatment, assessment and counseling, or equivalent activities, to a person ~~[couples, families]~~ or groups to achieve mental, emotional, physical, social, moral, educational, spiritual or career development and adjustment through the lifespan. The term includes ~~[without limitation]~~ counseling interventions to prevent, diagnose and treat mental, emotional or behavioral disorders and associated distresses which interfere with mental health. The term does not include:

1. The practice of psychology or medicine;
2. The prescription of drugs or electroconvulsive therapy;
3. The treatment of physical disease, injury or deformity;
4. The diagnosis or treatment of a psychotic disorder;
5. The use of projective techniques in the assessment of personality;
6. The use of psychological, neuropsychological or clinical tests designed to identify or classify abnormal or pathological human behavior;
7. The use of individually administered intelligence tests, academic achievement tests or neuropsychological tests; or

8. The use of psychotherapy to treat the concomitants of organic illness except in consultation with a qualified physician or licensed clinical psychologist.

Sec. 16. ~~["Problem gambling" means persistent and recurrent maladaptive behavior relating to gambling that causes disruptions in any major area of life, including, without limitation, the psychological, social or vocational areas of life.] (Deleted by amendment.)~~

Sec. 17. ~~["Problem gambling counselor" means a person who describes himself or his services to the public by any title or description which incorporates the term "problem gambling counselor" and under such a title offers to provide or provides services to any person.] (Deleted by amendment.)~~

Sec. 18. ~~["Professional counselor" means a person who holds himself out as a person qualified to engage in professional counseling or a person who offers to provide or provides professional counseling services.] (Deleted by amendment.)~~

Sec. 19. The Board of ~~[Examiners for Behavioral Health]~~ Clinical Professional Counseling, consisting of ~~[[1]]~~ 7 members appointed by the Governor, is hereby created.

Sec. 20. 1. The Governor shall appoint to the Board:

(a) ~~[Three members who are licensed marriage and family therapists and are in good standing with or acceptable for membership in their local or state societies and associations when they exist;~~

~~(b) Three members who are licensed alcohol and drug abuse counselors or certified problem gambling counselors and are in good standing with or acceptable for membership in their local or state societies and associations when they exist;~~

~~(c) Three]~~ Five members who are licensed clinical professional counselors and are in good standing with or acceptable for membership in their local or state societies and associations when they exist; and

~~[(d)]~~ (b) Two members who are representatives of the general public. The members must not be:

(1) A ~~[marriage and family therapist, alcohol and drug abuse counselor, problem gambling counselor or]~~ clinical professional counselor; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a ~~[marriage and family therapist, alcohol and drug abuse counselor, problem gambling counselor or]~~ clinical professional counselor.

2. The members of the Board who are representatives of the general public shall not participate in preparing, conducting or grading any examination required by the Board.

3. After the initial terms, members of the Board serve terms of 4 years. No member of the Board may serve more than two consecutive terms.

4. The Governor may, after notice and a hearing, remove any member of the Board for misconduct in office, incompetence, neglect of duty or any other sufficient cause.

Sec. 21. A person is not eligible for appointment or to hold office as a member of the Board unless he is:

1. A citizen of the United States.
2. A resident of Nevada.

Sec. 22. The Board shall meet at least once every 3 months at a time and place fixed by the Board. The Board shall hold a special meeting upon a call of the President or upon a request by a majority of the members. A majority of the Board constitutes a quorum to transact the business of the Board.

Sec. 23. The Board shall elect annually from its members a President, a Vice President and a Secretary-Treasurer, who hold office for 1 year and until the election and qualification of their successors.

Sec. 24. The Secretary-Treasurer shall prepare and maintain on behalf of the Board:

1. A record of all meetings and proceedings.
2. A record of all examinations and applicants.
3. A register of the name and address of each person licensed ~~for~~ ~~certified~~ pursuant to this chapter.
4. An inventory of the property of the Board and of the State in the Board's possession.

Sec. 25. The Board shall adopt regulations relating to:

1. Its procedure for carrying out its duties pursuant to this chapter;
2. The examination ~~for~~ and licensing ~~and certification~~ of applicants;
3. The issuance, refusal, revocation or suspension of licenses ; ~~and certificates;~~ and
4. The practice of clinical professional counseling ~~for the practice of marriage and family therapy, the practice of counseling alcohol and drug abusers and the practice of counseling problem gamblers as those practices apply~~ as that practice applies to this chapter.

Sec. 26. The Board shall:

1. Examine and pass upon the qualifications of applicants for licensing ; ~~for certification;~~
2. License ~~for certify~~ qualified applicants.
3. Revoke or suspend licenses ; ~~for certificates;~~
4. Establish requirements for continuing education.
5. Collect all fees and make disbursements pursuant to this chapter.

Sec. 27. 1. The Board shall:

(a) Adopt regulations prescribing the criteria for courses of study that are sufficient for the purposes of issuing licenses ; ~~for certificates;~~ and

(b) Determine the schools in and outside this State that have courses of study which are sufficient for the purpose of issuing licenses ; ~~for certificates;~~ Published lists of educational institutions accredited by

recognized accrediting organizations may be used in the evaluation of such courses of study.

2. A course of study is not sufficient for the purpose of issuing licenses ~~for certificates~~ unless the course of study:

- (a) Results in the awarding of a master's or doctoral degree; and
- (b) Requires the completion of the equivalent of at least 60 semester hours in courses that include at least 3 semester hours or the equivalent of study in each of the following areas:
 - (1) Helping relationships, including counseling theory and practice;
 - (2) Human growth and development;
 - (3) Lifestyle and career development;
 - (4) Group dynamics, processes, counseling and consulting;
 - (5) Assessment, appraisal and testing of persons;
 - (6) Social and cultural foundation, including multicultural issues;
 - (7) Principles of diagnosis, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;
 - (8) Research and evaluation; and
 - (9) Professional orientation and ethics in counseling.

3. The Board may authorize an applicant for a license ~~for certificate~~ who completes a course of study that is deficient in any of the areas set forth in subsection 2 to eliminate the deficiency by completing equivalent course work.

Sec. 28. 1. The Board or any member thereof may issue subpoenas for the attendance of witnesses and the production of books and papers.

2. The district court, in and for the county in which any hearing is held, may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the Board.

3. If any witness refuses to attend or testify or produce any books or papers required by a subpoena, the Board may file a petition ex parte with the district court, setting forth that:

- (a) Notice has been given of the time and place for the attendance of the witness or the production of the books or papers;
- (b) The witness has been subpoenaed by the Board pursuant to this section;
- (c) The witness has failed or refused to attend or produce the books or papers required by the subpoena before the Board in the cause or proceeding named in the subpoena, or has refused to answer questions propounded to him in the course of the hearing; and

(d) The Board therefore requests an order of the court compelling the witness to attend and testify or produce the books or papers before the Board.

4. The court, upon such a petition, shall enter an order directing the witness to appear before the court at a time and place fixed by the court in the order, and then and there to show cause why he has not attended or

testified or produced the books or papers before the Board. The time may not be more than 10 days after the date of the order. A certified copy of the order must be served upon the witness.

5. If the court determines that the subpoena was regularly issued by the Board, the court shall thereupon enter an order that the witness appear before the Board at the time and place fixed in the order, and testify or produce the required books or papers. Failure to obey the order is a contempt of the court that issued the order.

Sec. 29. 1. A member of the Board is entitled to receive:

(a) A salary of not more than ~~the \$801~~ \$150 per day, as fixed by the Board, while engaged in the business of the Board; and

(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.

2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 30. 1. Except as otherwise provided in subsection 4, all reasonable expenses incurred by the Board in carrying out the provisions of this chapter must be paid from the money which it receives. No part of the salaries or expenses of the Board may be paid out of the State General Fund.

2. All money received by the Board must be deposited in qualified banks, credit unions or savings and loan associations in this State and paid out on its order for its expenses.

3. In a manner consistent with the provisions of chapter 622A of NRS, the Board may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to this chapter, impose and collect fines and penalties therefor and deposit the money therefrom in banks, credit unions or savings and loan associations in this State.

4. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 3 and the Board deposits the money collected from the imposition of fines with the State Treasurer for credit to the State General Fund, it may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

Sec. 31. 1. Except as otherwise provided in this section, any records or information received by the Board relating to a licensee ~~for holder of a certificate~~ or an applicant for a license ~~for certificate~~ is confidential.

2. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the

Board requesting that those documents and information be made public records.

3. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information considered by the Board when determining whether to impose discipline are public records.

4. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 32. Each person desiring a license ~~for certificate~~ must apply to the Board upon a form, and in a manner, prescribed by the Board. The application must be accompanied by the application fee prescribed by the Board and all information required to complete the application.

Sec. 33. 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license ~~for certificate~~ must include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license ~~for certificate~~ must submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

(a) The application or any other forms that must be submitted for the issuance or renewal of the license ; ~~for certificate~~; or

(b) A separate form prescribed by the Board.

3. A license ~~for certificate~~ may not be issued or renewed by the Board if the applicant:

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

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

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

Sec. 34. 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license ~~for certificate~~ must submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; ~~for certificate~~; or

(b) A separate form prescribed by the Board.

3. A license ~~for certificate~~ may not be issued or renewed by the Board if the applicant:

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

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

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

Sec. 35. Each applicant for a license ~~for certificate~~ must provide proof satisfactory to the Board that he:

1. Is at least 21 years of age;

2. Is of good moral character; and

3. Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

Sec. 36. In addition to the requirements set forth in section 35 of this act, an applicant for a license as a clinical professional counselor must provide proof satisfactory to the Board that he:

1. Possesses a master's or doctoral degree in counseling from an accredited college or university approved by the Board, which required the completion of a practicum or internship which included not less than 300 hours of supervised counseling directly with clients.

2. Has completed at least 3,000 hours of supervised experience in the practice of clinical professional counseling. The hours must have been completed within a 2-year period and must include, without limitation:

(a) At least 1,200 hours of counseling directly with a person ~~or couples~~ ~~families~~ or groups; and

(b) At least 100 hours of counseling under the direct supervision of an approved supervisor ~~for~~ of which at least 1 hour per week of such direct supervision was completed for each work setting at which the applicant provided counseling.

3. Has passed the National Counselor Examination for Licensure and Certification or the National Clinical Mental Health Counseling Examination which are administered by the National Board for Certified Counselors.

Sec. 36.5. In addition to the requirements set forth in section 35 of this act, an applicant for a license as a clinical professional counselor must provide proof satisfactory to the Board that he:

1. Possesses a master's or doctoral degree in counseling from an accredited college or university approved by the Board, which required the completion of a practicum or internship which included not less than 300 hours of supervised counseling directly with clients.

2. Has completed at least 3,000 hours of supervised experience in the practice of clinical professional counseling. The hours must have been completed within a 2-year period and must include, without limitation:

(a) At least 1,200 hours of counseling directly with a person or groups; and

(b) At least 100 hours of counseling under the direct supervision of an approved supervisor of which at least 1 hour per week of such direct supervision was completed for each work setting at which the applicant provided counseling.

3. Has passed the National Clinical Mental Health Counseling Examination which is administered by the National Board for Certified Counselors.

~~Sec. 37. In addition to the requirements set forth in section 35 of this act, an applicant for a license as a marriage and family therapist must provide proof satisfactory to the Board that he:~~

~~1. Possesses a master's or doctoral degree in marriage and family therapy from an accredited college or university approved by the Board, which required the completion of a practicum or internship which included not less than 300 hours of supervised counseling directly with clients.~~

~~2. Has completed at least 3,000 hours of supervised experience in the practice of marriage and family therapy. The hours must have been completed within a 2 year period and must include, without limitation:~~

~~(a) At least 1,200 hours of marriage and family therapy directly with a person, couples, families or groups; and~~

~~(b) At least 100 hours of marriage and family therapy under the supervision of an approved supervisor.~~

~~3. Has passed the Examination in Marital and Family Therapy administered by the Association of Marital and Family Therapy Regulatory Boards.~~ (Deleted by amendment.)

Sec. 38. ~~[In addition to the requirements set forth in section 35 of this act, an applicant for a license as an alcohol and drug abuse counselor must provide proof satisfactory to the Board that he:~~

~~1. Possesses a master's or doctoral degree in a field of social science from an accredited college or university approved by the Board, which required the completion of a practicum or internship which included not less than 300 hours of supervised counseling directly with clients;~~

~~2. Has completed at least 3,000 hours of supervised experience in the practice of counseling alcohol and drug abusers. The hours must have been completed within a 2 year period and must include, without limitation:~~

~~(a) At least 1,200 hours of counseling directly with a person, couples, families or groups; and~~

~~(b) At least 100 hours of counseling under the supervision of an approved supervisor; and~~

~~3. Except as otherwise provided in section 16 of this act, has passed the written and oral examinations prescribed by the Board.] (Deleted by amendment.)~~

Sec. 39. ~~[1. In addition to the requirements set forth in section 35 of this act, an applicant for a certificate as an alcohol and drug abuse counselor must provide proof satisfactory to the Board that he:~~

~~(a) Except as otherwise provided in subsection 2, has received a bachelor's degree from an accredited college or university in a field of social science approved by the Board;~~

~~(b) Has completed 1,000 hours of supervised counseling of alcohol and drug abusers; and~~

~~(c) Has passed the written and oral examinations prescribed by the Board.~~

~~2. The Board may waive the educational requirement set forth in paragraph (a) of subsection 1 if an applicant for a certificate has contracted with or receives a grant from the Federal Government to provide services as an alcohol and drug abuse counselor to persons who are authorized to receive those services pursuant to 25 U.S.C. §§ 450 et seq., or 25 U.S.C. §§ 1601 et seq. An alcohol and drug abuse counselor certified pursuant to this section for whom the educational requirement set forth in paragraph (a) of subsection 1 is waived may provide services as an alcohol and drug abuse counselor only to those persons who are authorized to receive those services pursuant to 25 U.S.C. §§ 450 et seq., or 25 U.S.C. §§ 1601 et seq.~~

~~3. A certified alcohol and drug abuse counselor may:~~

~~(a) Engage in the practice of counseling alcohol and drug abusers; and~~

~~(b) Diagnose or classify a person as an alcoholic or abuser of drugs.] (Deleted by amendment.)~~

Sec. 40. ~~[1. In addition to the requirements set forth in section 35 of this act, an applicant for a certificate as an alcohol and drug abuse counselor intern must provide proof satisfactory to the Board that he:~~

~~(a) Has a high school diploma or a general equivalency diploma;~~

~~(b) Is enrolled in a program from which he will receive an associate's degree, bachelor's degree, master's degree or doctoral degree from an accredited college or university in a field of social science approved by the Board; or~~

~~(c) Has received an associate's degree, bachelor's degree, master's degree or doctoral degree from an accredited college or university in a field of social science approved by the Board.~~

~~2. A certificate as an alcohol and drug abuse counselor intern may be renewed. The Board may waive any requirement for the renewal of a certificate upon good cause shown by the holder of a certificate.~~

~~3. A certified intern may, under the supervision of a licensed or certified alcohol and drug abuse counselor:~~

~~(a) Engage in the practice of counseling alcohol and drug abusers; and~~

~~(b) Diagnose or classify a person as an alcoholic or drug abuser.]~~

~~(Deleted by amendment.)~~

Sec. 41. ~~[1. In addition to the requirements set forth in section 35 of this act, an applicant for a certificate as a problem gambling counselor must provide proof satisfactory to the Board that he has:~~

~~(a) Received a bachelor's degree, master's degree or a doctoral degree from an accredited college or university in a field of social science approved by the Board;~~

~~(b) Completed not less than 60 hours of training relating to problem gambling approved by the Board;~~

~~(c) Completed at least 2,000 hours of supervised counseling of problem gamblers in a setting approved by the Board; and~~

~~(d) Passed the written examination prescribed by the Board.~~

~~2. A certificate as a problem gambling counselor may be renewed.~~

~~3. A certified problem gambling counselor may:~~

~~(a) Engage in the practice of counseling problem gamblers;~~

~~(b) Assess and evaluate a person as a problem gambler; and~~

~~(c) If approved by the Board, supervise certified problem gambling counseling interns.] (Deleted by amendment.)~~

Sec. 42. ~~[1. In addition to the requirements of section 35 of this act, an applicant for certification as a problem gambling counselor intern must provide proof satisfactory to the Board that:~~

~~(a) He has received a bachelor's degree, master's degree or a doctoral degree from an accredited college or university in a field of social science approved by the Board, or is enrolled in a program at an accredited college or university from which he will receive a bachelor's degree, master's degree or a doctoral degree in a field of social science approved by the Board;~~

~~(b) He has completed not less than 30 hours of training relating to problem gambling approved by the Board; and~~

~~(c) A certified problem gambling counselor approved by the Board has agreed to supervise him in a setting approved by the Board.~~

~~2. Except as otherwise provided in subsection 3, a certificate as a problem gambling counselor intern may be renewed.~~

~~3. A certificate as a problem gambling counselor intern issued to a person on the basis that he is enrolled in a program at an accredited college or university from which he will receive a bachelor's degree, master's degree or a doctoral degree in a field of social science approved by the Board may be renewed not more than nine times.~~

~~4. A certified problem gambling counselor intern may, under the supervision of a certified problem gambling counselor:~~

~~(a) Engage in the practice of counseling problem gamblers; and~~
~~(b) Assess and evaluate a person as a problem gambler.† (Deleted by amendment.)~~

Sec. 43. ~~†1. The Board may, by regulation, provide for the certification of a person as a detoxification technician.~~

~~2. Any regulation adopted pursuant to subsection 1 must be consistent with the provisions of chapter 622A of NRS and must include, without limitation, provisions relating to:~~

~~(a) The requirements for submitting an application for a certificate, including, without limitation, the submission of a complete set of fingerprints pursuant to section 44 of this act;~~

~~(b) The scope of practice for a person who is issued a certificate;~~

~~(c) The conduct of any investigation or hearing relating to an application for a certificate;~~

~~(d) The examination of an applicant for a certificate or a waiver of examination for an applicant;~~

~~(e) The requirements for issuing a certificate or provisional certificate;~~

~~(f) The duration, expiration, renewal, suspension, revocation and reinstatement of a certificate;~~

~~(g) The grounds for refusing to issue, renew or reinstate a certificate;~~

~~(h) The conduct of any disciplinary or other administrative proceeding relating to a person who is issued a certificate;~~

~~(i) The filing of a complaint against a person who is issued a certificate;~~

~~(j) The issuance of a subpoena for the attendance of witnesses and the production of books, papers and records;~~

~~(k) The payment of fees for:~~

~~(1) Witnesses, mileage and attendance at a hearing or deposition; and~~

~~(2) The issuance, renewal or reinstatement of a certificate;~~

~~(l) The imposition of a penalty for a violation of any provision of the regulations; and~~

~~(m) The confidentiality of any record or other information maintained by the Board relating to an applicant or the holder of a certificate.~~

~~3. A person shall not engage in any activity for which the Board requires a certificate as a detoxification technician pursuant to this section unless the person is certified as such.~~

~~4. In addition to the provisions of subsection 2, a regulation adopted pursuant to this section must include provisions that are substantially similar to the requirements set forth in sections 33 and 58 of this act. Any provision included in a regulation pursuant to this subsection remains effective until the provisions of sections 33 and 58 of this act expire by limitation.~~

~~5. Except as otherwise provided in this section and sections 66, 67 and 68 of this act, the provisions of this chapter do not apply to the holder of a certificate that is issued in accordance with a regulation adopted pursuant to this section.~~

~~6. As used in this section, "detoxification technician" means a person who is certified by the Board to provide screening for the safe withdrawal from alcohol and other drugs.] (Deleted by amendment.)~~

Sec. 44. In addition to any other requirements set forth in this chapter, an applicant for a license ~~for certificate~~ must submit to the Board a complete set of his fingerprints which the Board may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

Sec. 45. 1. The Board may use any information included in a report of criminal history that is obtained pursuant to this section or section 44 of this act in determining whether:

(a) To issue, renew, suspend, revoke or reinstate a license ~~for certificate~~ pursuant to this chapter; or

(b) Any ground for imposing any disciplinary action exists pursuant to section 57 of this act.

2. Before renewing or reinstating a license ~~for certificate~~ issued pursuant to this chapter, the Board may, by regulation, require a licensee ~~for holder of a certificate~~ to submit to the Board 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.

~~f 3. A regulation adopted pursuant to subsection 2 must set forth the circumstances under which the Board will require a detoxification technician to submit his fingerprints and written authorization specified in that subsection before renewing or reinstating his certificate.]~~

Sec. 46. The Board may issue a license without examination to a person who holds a license to engage in the practice of ~~alcohol and drug abuse counseling, marriage and family therapy or~~ clinical professional counseling in a state whose licensing requirements at the time the license was issued are deemed by the Board to be substantially equivalent to the requirements set forth in this chapter.

Sec. 47. 1. A person who wishes to obtain the supervised experience that is required for licensure ~~for certification~~ pursuant to this chapter must obtain a provisional license as an intern before beginning his supervised experience.

2. In addition to the requirements set forth in section 35 of this act, an applicant for a provisional license as an intern must furnish evidence satisfactory to the Board that he:

(a) Possesses a ~~bachelor's,~~ master's or doctoral degree in ~~an appropriate field of social science,~~ counseling from an accredited college or university approved by the Board which required the completion of a practicum or internship; and

(b) Has entered into a supervision agreement with an approved supervisor.

Sec. 48. A provisional license ~~for~~ as an intern:

1. Is valid for 5 years and may be renewed not more than once; and

2. Expires upon:

(a) The termination of a supervision agreement;

(b) A change in the approved supervisor; or

(c) The issuance of a license as a ~~marriage and family therapist, professional counselor or alcohol and drug abuse,~~ clinical professional counselor to the holder of a provisional license ~~for~~ as an intern.

Sec. 49. 1. The holder of a provisional license as an intern shall, before providing any counseling or other therapeutic service to a client:

(a) Inform the client that he holds a provisional license as an intern and is practicing under the supervision of an approved supervisor; and

(b) Provide to the client the name of his approved supervisor.

2. A violation of subsection 1 constitutes a ground for initiating disciplinary action or denying licensure.

Sec. 50. 1. The holder of a provisional license as an intern who makes a change in a supervision agreement or enters into a new supervision agreement shall notify the Board within 30 days after the date of the change or new agreement.

2. Each party to a supervision agreement shall, upon its termination, notify the Board in writing not more than 5 days after the date of termination.

Sec. 51. 1. The Board shall issue a license ~~for certificate~~ to an applicant who complies with the requirements for a license ~~for certificate~~ as set forth in this chapter.

2. Except as otherwise provided in section 48 of this act, a license ~~for certificate~~ is valid for 1 year after the date of issuance or until it is suspended, revoked or otherwise terminated.

Sec. 52. 1. A person who wishes to renew a license ~~for certificate~~ issued pursuant to this chapter, must, on or before the date of expiration of the license: ~~for certificate~~

(a) Apply to the Board for renewal;

(b) Pay the fee for renewal prescribed by the Board;

(c) Submit proof to the Board of his completion of the requirements for continuing education; and

(d) Submit all information required to complete the renewal.

2. The Board shall, as a requirement for the renewal of a license ~~for certificate~~, require each licensee ~~for holder of a certificate~~ to comply with the requirements for continuing education adopted by the Board.

Sec. 53. Failure to pay the fee for renewal automatically effects a revocation of the license ~~for certificate~~ on the date of expiration of the license ~~for certificate~~. The license ~~for certificate~~ may not be reinstated except upon:

1. Written application;
2. Submission of proof of the completion of the continuing education for the period the license ~~for certificate~~ was revoked; and
3. The payment of the fee for renewal and the fee for reinstatement set forth in section 56 of this act.

Sec. 54. After a license ~~for certificate~~ has lapsed continuously for 3 years, a person who applies for reinstatement of a license ~~for certificate~~ must meet the statutory requirements for a license ~~for certificate~~ in effect at the time of application.

Sec. 55. 1. Upon written request to the Board and payment of the fee prescribed by the Board, a licensee ~~for holder of a certificate~~ in good standing may have his name and license ~~for certificate~~ transferred to an inactive list for a period not to exceed 3 continuous years. A licensee ~~for holder of a certificate~~ shall not practice during the time his license ~~for certificate~~ is inactive. If an inactive licensee ~~for holder of a certificate~~ wishes to resume practice, the Board shall reactivate the license ~~for certificate~~ upon the:

- (a) Completion of an application for reactivation;
- (b) Payment of the fee for reactivation of the license ~~for certificate~~; and
- (c) Demonstration, if required by the Board, that the licensee ~~for holder of a certificate~~ is qualified to practice.

➔ Except as otherwise provided in subsection 2, the licensee ~~for holder of a certificate~~ is not required to pay the renewal fee for any year the license ~~for certificate~~ is inactive.

2. Any license ~~for certificate~~ that is inactive for a period of more than 3 continuous years is deemed:

- (a) To effect a revocation for the purposes of section 53 of this act.
- (b) To have lapsed at the beginning of that period for the purposes of section 54 of this act.

3. The Board may adopt such regulations as it deems necessary to carry out the provisions of this section, including, without limitation, regulations governing the renewal of inactive licenses ~~and certificates~~ and any requirement for continuing education for inactive licensees ~~for holders of a certificate~~.

Sec. 56. The Board shall charge and collect not more than the following fees:

For the initial application for a license ~~for certificate~~	\$75
For the issuance of an initial license ~~for certificate~~	50

For issuance of a provisional license <u>as an intern</u>	125
For an inactive license	150
For the annual renewal of a license ~~for certificate~~	150
For the reinstatement of a suspended or revoked license ~~for certificate~~	100
For the reactivation of an inactive license ~~for certificate~~	150
For an examination of an applicant for a license ~~for certificate~~	~~150~~ 200

Sec. 57. The Board may refuse to issue a license ~~for certificate~~ or may suspend or revoke a license ~~for certificate~~ for any of the following reasons:

1. Conviction of a felony relating to the practice of ~~behavioral health~~ clinical professional counseling or of any offense involving moral turpitude, the record of conviction being conclusive evidence thereof.

2. Habitual drunkenness or addiction to the use of a controlled substance.

3. Impersonating a licensee ~~for holder of a certificate~~ or allowing another person to use his license ~~for certificate~~.

4. Using fraud or deception in applying for a license ~~for certificate~~ or in passing the examination provided for in this chapter.

5. Providing or offering to provide services outside the area of his training, experience or competence.

6. Committing unethical practices contrary to the interest of the public as determined by the Board.

7. Unprofessional conduct as determined by the Board.

8. Negligence, fraud or deception in connection with services he is licensed ~~for certified~~ to provide pursuant to this chapter.

9. Any disciplinary action by another state or jurisdiction in connection with the practice of ~~behavioral health~~ clinical professional counseling or the commission of an act in another state or jurisdiction which is a violation of this chapter.

10. Failure to comply with a requirement for licensure ~~for certification~~.

Sec. 58. 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is a licensee ~~for a holder of a certificate~~ issued pursuant to this chapter, the Board shall deem the license ~~for certificate~~ issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the licensee ~~for holder of the certificate~~ by the district attorney or other public agency pursuant to NRS 425.550 stating that the licensee ~~for holder of a certificate~~ has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. Except as otherwise provided in section 45 of this act, the Board shall reinstate a license ~~for certificate~~ issued pursuant to this chapter that has

been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license ~~for certificate~~ was suspended stating that the person whose license ~~for certificate~~ was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 59. 1. If the Board or any investigative committee of the Board has reason to believe that the conduct of any licensee ~~for holder of a certificate~~ has raised a reasonable question concerning his competence to practice with reasonable skill and safety, it may order the licensee ~~for holder of a certificate~~ to undergo:

(a) A mental or physical examination administered by a licensed provider of health care;

(b) An examination testing his competence to practice; or

(c) Any other examination designated by the Board,

↳ to assist the Board or committee in determining the fitness of the licensee ~~for holder of a certificate~~ to practice.

2. For the purposes of this section:

(a) Each person who applies for a license ~~for certificate~~ or who is licensed ~~for certified~~ pursuant to this chapter is deemed to have given his consent to submit to any examination ordered pursuant to subsection 1 if ordered to do so in writing by the Board.

(b) The testimony and reports of the examining provider of health care are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a licensee ~~for holder of a certificate~~ to submit to an examination if ordered to do so as provided in this section constitutes an admission of the charges against him.

4. The Board may require the licensee ~~for holder of a certificate~~ to pay the cost of an examination ordered pursuant to this section.

Sec. 60. 1. The Board may discipline a licensee ~~for holder of a certificate~~ whose default has been entered or who has been heard by the Board and found guilty, by any of the following methods:

(a) Placing him upon probation for a period to be determined by the Board.

(b) Suspending his license ~~for certificate~~ for not more than 1 year.

(c) Revoking his license ~~for certificate~~.

(d) Administering a public reprimand.

(e) Limiting his practice.

(f) Imposing an administrative fine of not more than \$5,000.

(g) Requiring him to complete successfully another examination.

2. The Board shall not administer a private reprimand.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 61. 1. A complaint may be made against a licensee ~~for holder of a certificate~~ by an agency or inspector employed by the Board, any other licensee ~~for holder of a certificate~~ or any aggrieved person, charging one or more of the causes for which the licensee ~~for holder of a certificate~~ may be revoked or suspended with such particularity as to enable the defendant to prepare a defense thereto.

2. A complaint must be made in writing and signed and verified by the person making the complaint. The original complaint and two copies must be filed with the Secretary-Treasurer of the Board.

Sec. 62. 1. As soon as practicable after the filing of a complaint, the Board shall fix a date for the hearing on the matter. The date must not be less than 30 days after the filing of the complaint. The Secretary-Treasurer of the Board shall immediately notify the licensee ~~for holder of a certificate~~ of the complaint and the date and place fixed for the hearing. A copy of the complaint must be attached to the notice.

2. The hearing must be conducted by a panel consisting of:

(a) Two members of the Board who ~~practice in the same discipline as the licensee or holder of a certificate;~~ are clinical professional counselors; and

(b) A member of the Board who represents the general public.

3. Upon conclusion of the hearing or as soon as practicable thereafter, the Board shall make and announce its decision.

Sec. 63. If the Board revokes or suspends a license ~~for certificate~~ for a specific period, the licensee ~~for holder of a certificate~~ may apply for a rehearing within 10 days after the date of the suspension or revocation, and the Board may grant the application upon the terms and conditions it deems appropriate within 30 days after the application.

Sec. 64. An application may be made to the Board for reinstatement of a license ~~for certificate~~ not less than 1 year after the date of the revocation of a license ~~for certificate~~. The Board has sole discretion to accept or reject an application for reinstatement and may require examination for reinstatement of the license ~~for certificate~~.

Sec. 65. 1. It is unlawful for any person to engage in the practice of ~~marriage and family therapy, the practice of professional counseling, the practice of counseling alcohol and drug abusers or the practice of counseling problem gamblers or to practice as a detoxification technician~~ clinical professional counseling unless he is licensed ~~for certified~~ pursuant to this chapter.

2. The provisions of this chapter do not:

(a) Prohibit any licensed physician, licensed nurse, licensed psychologist or other person licensed or certified by the State from carrying out the functions authorized by his respective license or certification if the person does not hold himself out to the public by any title and description of service likely to cause confusion with the titles and descriptions of service set forth in this chapter.

(b) Apply to any activity or service of a student who is obtaining a professional education as recognized by the Board if the activity or service constitutes a part of the student's supervised course of study, the activities are supervised by an approved supervisor and the student is identified by the title ~~["]~~ "student intern in ~~behavioral health]~~ clinical professional counseling" or any other title which clearly indicates his status as a student.

(c) Apply to a licensed or ordained minister in good standing with his denomination whose duty is primarily to serve his congregation and whose practice of ~~behavioral health]~~ clinical professional counseling is incidental to his other duties if he does not hold himself out to the public by any title or description of service that is likely to cause confusion with the titles and descriptions or services set forth in this chapter.

Sec. 66. It is unlawful for any person, other than a person licensed ~~for certified]~~ pursuant to this chapter to use any title in connection with his work, or imply that he is licensed ~~for certified]~~ by the Board, unless he is licensed ~~for certified]~~ pursuant to this chapter.

Sec. 67. Any person who violates any of the provisions of this chapter or, having had his license ~~for certificate]~~ suspended or revoked, continues to represent himself as having such a license ~~for certificate]~~ shall be punished by imprisonment in the county jail for not more than 1 year or by a fine of not more than \$5,000, or by both fine and imprisonment. Each violation is a separate offense.

Sec. 68. A violation of any provision of this chapter by a person unlawfully representing himself as licensed ~~for certified]~~ pursuant to this chapter may be enjoined by a district court on petition by the Board. In any such proceeding it is not necessary to demonstrate that any person is individually injured. If the respondent is found guilty of misrepresenting himself as licensed ~~for certified]~~ pursuant to this chapter, the court shall enjoin him from making such a representation until he is licensed ~~for certified]~~. The procedure in such cases is the same as in any other application for an injunction. The remedy by injunction is in addition to criminal prosecution and punishment.

Sec. 69. NRS 622A.120 is hereby amended to read as follows:

622A.120 1. The following regulatory bodies are exempted from the provisions of this chapter:

- (a) State Contractors' Board.
- (b) State Board of Professional Engineers and Land Surveyors.
- (c) Nevada State Board of Accountancy.
- (d) Board of Medical Examiners.
- (e) Board of Dental Examiners of Nevada.
- (f) State Board of Nursing.
- (g) Chiropractic Physicians' Board of Nevada.
- (h) Nevada State Board of Optometry.
- (i) State Board of Pharmacy.

(j) Board of Examiners for Marriage and Family Therapists, ~~*Behavioral Health Counseling*~~

(k) Board of Clinical Professional Counseling.

(l) Real Estate Commission, Real Estate Administrator and Real Estate Division of the Department of Business and Industry.

~~((d))~~ (m) Commission of Appraisers of Real Estate.

~~((m))~~ (n) Commissioner of Mortgage Lending and Division of Mortgage Lending of the Department of Business and Industry.

~~((n))~~ (o) Commissioner of Financial Institutions and Division of Financial Institutions of the Department of Business and Industry.

~~((o))~~ (p) State Board of Health and Health Division of the Department of Health and Human Services.

2. Any regulatory body which is exempted from the provisions of this chapter pursuant to subsection 1 may elect by regulation to follow the provisions of this chapter or any portion thereof.

Sec. 70. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, clinical professional counselor, chiropractor, athletic trainer, doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 71. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, physician assistant, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who maintains or is employed by an agency to provide nursing in the home.

(f) Any employee of the Department of Health and Human Services.

(g) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(h) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(i) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(j) Any social worker.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section, "agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

Sec. 72. NRS 640A.070 is hereby amended to read as follows:

640A.070 This chapter does not apply to a person:

1. Holding a current license or certificate issued pursuant to chapter 391, 630 to 637B, inclusive, 640, 640B to 641B, inclusive, of NRS, *and sections 2 to 68, inclusive, of this act* who practices within the scope of that license or certificate.

2. Employed by the Federal Government who practices occupational therapy within the scope of that employment.

3. Enrolled in an educational program approved by the Board which is designed to lead to a certificate or degree in occupational therapy, if he is designated by a title which clearly indicates that he is a student.

4. Obtaining the supervised experience necessary to satisfy the requirements of subsection 3 of NRS 640A.120.

5. Practicing occupational therapy in this State in association with an occupational therapist licensed pursuant to this chapter if the person:

(a) Practices in this State for not more than 45 days in a calendar year;

(b) Is licensed to practice occupational therapy in another state where the requirements for such a license are equivalent to the requirements of this chapter; and

(c) Meets the requirements for certification as an "occupational therapist registered" or "certified occupational therapy assistant" established by the American Occupational Therapy Certification Board.

Sec. 73. NRS 641.029 is hereby amended to read as follows:

641.029 The provisions of this chapter do not apply to:

1. A physician who is licensed to practice in this State;
2. A person who is licensed to practice dentistry in this State;
3. A person who is licensed as a marriage and family therapist pursuant to chapter 641A of NRS; ~~sections 2 to 68, inclusive, of this act;~~
4. A person who is licensed as a clinical professional counselor pursuant to sections 2 to 68, inclusive, of this act;
5. A person who is licensed to engage in social work pursuant to chapter 641B of NRS;

[5.] 6. A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to NRS 640A.010 to 640A.230, inclusive;

~~{6.}~~ 7. A person who is licensed or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern, a problem gambling counselor or a problem gambling counselor intern pursuant to chapter 641C of NRS; ~~sections 2 to 68, inclusive, of this act;~~ or

~~{7.}~~ 8. Any clergyman,
 ➔ if such a person does not commit an act described in NRS 641.440 or represent himself as a psychologist.

Sec. 74. NRS 641.440 is hereby amended to read as follows:

641.440 Any person who:

1. Presents as his own the diploma, license or credentials of another;
2. Gives either false or forged evidence of any kind to the Board or any member thereof, in connection with an application for a license;
3. Practices psychology under a false or assumed name or falsely personates another psychologist of a like or different name;
4. Except as provided in NRS 641.390, 641.410 and 641A.410, and section 65 of this act, represents himself as a psychologist, or uses any title or description which incorporates the word "psychology," "psychological," "psychologist," "psychometry," "psychometrics," "psychometrist" or any other term indicating or implying that he is a psychologist, unless he has been issued a license; or

5. Practices psychology unless he has been issued a license,
 ➔ is guilty of a gross misdemeanor.

Sec. 75. NRS 641B.040 is hereby amended to read as follows:

641B.040 The provisions of this chapter do not apply to:

1. A physician who is licensed to practice in this State;
2. A nurse who is licensed to practice in this State;
3. A person who is licensed as a psychologist pursuant to chapter 641 of NRS;

4. A person who is licensed as a marriage and family therapist pursuant to chapter 641A of NRS; ~~sections 2 to 68, inclusive, of this act;~~

5. *A person who is licensed as a clinical professional counselor pursuant to sections 2 to 68, inclusive, of this act;*

6. A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to NRS 640A.010 to 640A.230, inclusive;

~~6.~~ 7. A person who is licensed or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern, a problem gambling counselor or a problem gambling counselor intern pursuant to chapter 641C of NRS;

~~7.~~ ~~sections 2 to 68, inclusive, of this act;~~

8. Any clergyman;

~~8.~~ 9. A county welfare director;

~~9.~~ 10. Any person who may engage in social work or clinical social work in his regular governmental employment but does not hold himself out to the public as a social worker; or

~~10.~~ 11. A student of social work and any other person preparing for the profession of social work under the supervision of a qualified social worker in a training institution or facility recognized by the Board, unless the student or other person has been issued a provisional license pursuant to paragraph (b) of subsection 1 of NRS 641B.275. Such a student must be designated by the title "student of social work" or "trainee in social work," or any other title which clearly indicates his training status.

Sec. 76. Chapter 49 of NRS is hereby amended by adding thereto the provisions set forth as sections 77 to 80, inclusive, of this act.

Sec. 77. *As used in sections 77 to 80, inclusive, of this act, unless the context otherwise requires:*

1. *"Client" means a person who consults or is interviewed by a clinical professional counselor for the purpose of diagnosis or treatment.*

2. *"Clinical professional counselor" has the meaning ascribed to it in section 6.5 of this act.*

3. *A communication is "confidential" if it is not intended to be disclosed to any third person other than a person:*

(a) *Present during the consultation or interview to further the interest of the client;*

(b) *Reasonably necessary for the transmission of the communication; or*

(c) *Who participates in the diagnosis or treatment under the direction of the clinical professional counselor, including a member of the client's family.*

~~3. "Professional counselor" has the meaning ascribed to it in section 18 of this act.~~

Sec. 78. *A client has a privilege to refuse to disclose, and to prevent any other person from disclosing, confidential communications among himself, his clinical professional counselor or any other person who participates in the diagnosis or treatment under the direction of the clinical professional counselor.*

Sec. 79. 1. *The privilege may be claimed by the client, his guardian or conservator, or by the personal representative of a deceased client.*

2. *The person who was the clinical professional counselor may claim the privilege but only on behalf of the client. His authority to do so is presumed in the absence of evidence to the contrary.*

Sec. 80. *There is no privilege under section 78 or 79 of this act:*

1. *If the client communicates to the clinical professional counselor that he intends or plans to commit what the client knows or reasonably should know is a crime.*

2. *If the clinical professional counselor is required to testify in an administrative or court-related investigation or proceeding involving the welfare of his client or the minor children of his client.*

3. *For communications relevant to an issue in proceedings to hospitalize the ~~patient~~ client for mental illness, if the clinical professional counselor in the course of diagnosis or treatment has determined that the client is in need of hospitalization.*

4. *With respect to communications relevant to an issue of the treatment of the client in any proceeding in which the treatment is an element of a claim or defense.*

Sec. 81. ~~[NRS 49.246 is hereby amended to read as follows:~~

~~49.246—As used in NRS 49.246 to 49.249, inclusive, unless the context otherwise requires:~~

~~1. "Client" means a person who consults or is interviewed by a marriage and family therapist for the purpose of diagnosis or treatment.~~

~~2. A communication is "confidential" if it is not intended to be disclosed to any third person other than a person:~~

~~(a) Present during the consultation or interview to further the interest of the client;~~

~~(b) Reasonably necessary for the transmission of the communication; or~~

~~(c) Participating in the diagnosis or treatment under the direction of the marriage and family therapist, including a member of the client's family.~~

~~3. "Marriage and family therapist" has the meaning ascribed to it in [NRS 641A.060.] section 10 of this act. (Deleted by amendment.)~~

Sec. 82. NRS 62A.270 is hereby amended to read as follows:

62A.270 "Qualified professional" means:

1. A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc.;

2. A psychologist licensed to practice in this State;

3. A social worker holding a master's degree in social work and licensed in this State as a clinical social worker;

4. A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State; ~~{or}~~

5. A marriage and family therapist licensed in this State pursuant to chapter 641A of NRS ~~[.] sections 2 to 68, inclusive, of this act.] ; or~~

6. *A clinical professional counselor licensed in this State pursuant to sections 2 to 68, inclusive, of this act.*

Sec. 83. ~~[NRS 62E.620 is hereby amended to read as follows:~~

~~62E.620 1. The juvenile court shall order a delinquent child to undergo an evaluation to determine whether the child is an abuser of alcohol or other drugs if the child committed:~~

~~(a) An unlawful act in violation of NRS 484.379, 484.3795 or 484.37955;~~

~~(b) The unlawful act of using, possessing, selling or distributing a controlled substance; or~~

~~(c) The unlawful act of purchasing, consuming or possessing an alcoholic beverage in violation of NRS 202.020.~~

~~2. Except as otherwise provided in subsection 3, an evaluation of the child must be conducted by:~~

~~(a) An alcohol and drug abuse counselor who is licensed or certified or an alcohol and drug abuse counselor intern who is certified pursuant to [chapter 641C of NRS] sections 2 to 68, inclusive, of this act to make that classification; or~~

~~(b) A physician who is certified to make that classification by the Board of Medical Examiners.~~

~~3. If the child resides in this State but the nearest location at which an evaluation may be conducted is in another state, the court may allow the evaluation to be conducted in the other state if the person conducting the evaluation:~~

~~(a) Possesses qualifications that are substantially similar to the qualifications described in subsection 2;~~

~~(b) Holds an appropriate license, certificate or credential issued by a regulatory agency in the other state; and~~

~~(c) Is in good standing with the regulatory agency in the other state.~~

~~4. The evaluation of the child may be conducted at an evaluation center.~~

~~5. The person who conducts the evaluation of the child shall report to the juvenile court the results of the evaluation and make a recommendation to the juvenile court concerning the length and type of treatment required for the child.~~

~~6. The juvenile court shall:~~

~~(a) Order the child to undergo a program of treatment as recommended by the person who conducts the evaluation of the child.~~

~~(b) Require the treatment facility to submit monthly reports on the treatment of the child pursuant to this section.~~

~~(c) Order the child or the parent or guardian of the child, or both, to the extent of their financial ability, to pay any charges relating to the evaluation and treatment of the child pursuant to this section. If the child or the parent or guardian of the child, or both, do not have the financial resources to pay all those charges:~~

~~(1) The juvenile court shall, to the extent possible, arrange for the child to receive treatment from a treatment facility which receives a sufficient amount of federal or state money to offset the remainder of the costs; and~~

~~(2) The juvenile court may order the child, in lieu of paying the charges relating to his evaluation and treatment, to perform community service.~~

~~7. After a treatment facility has certified a child's successful completion of a program of treatment ordered pursuant to this section, the treatment facility is not liable for any damages to person or property caused by a child who:~~

~~(a) Drives, operates or is in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance; or~~

~~(b) Engages in any other conduct prohibited by NRS 484.379, 484.3795, 484.37955, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425 or a law of any other jurisdiction that prohibits the same or similar conduct.~~

~~8. The provisions of this section do not prohibit the juvenile court from:~~

~~(a) Requiring an evaluation to be conducted by a person who is employed by a private company if the company meets the standards of the Health Division of the Department of Health and Human Services. The evaluation may be conducted at an evaluation center.~~

~~(b) Ordering the child to attend a program of treatment which is administered by a private company.~~

~~9. All information relating to the evaluation or treatment of a child pursuant to this section is confidential and, except as otherwise authorized by the provisions of this title or the juvenile court, must not be disclosed to any person other than:~~

~~(a) The juvenile court;~~

~~(b) The child;~~

~~(c) The attorney for the child, if any;~~

~~(d) The parents or guardian of the child;~~

~~(e) The district attorney; and~~

~~(f) Any other person for whom the communication of that information is necessary to effectuate the evaluation or treatment of the child.~~

~~10. A record of any finding that a child has violated the provisions of NRS 484.379, 484.3795 or 484.37955 must be included in the driver's record of that child for 7 years after the date of the offense.} (Deleted by amendment.)~~

Sec. 84. NRS 89.050 is hereby amended to read as follows:

89.050 1. Except as otherwise provided in subsection 2, a professional corporation may be organized only for the purpose of rendering one specific type of professional service and may not engage in any business other than rendering the professional service for which it was organized and services reasonably related thereto, except that a professional corporation may own real and personal property appropriate to its business and may invest its

money in any form of real property, securities or any other type of investment.

2. A professional corporation may be organized to render a professional service relating to:

(a) Architecture, interior design, residential design, engineering and landscape architecture, or any combination thereof, and may be composed of persons:

(1) Engaged in the practice of architecture as provided in chapter 623 of NRS;

(2) Practicing as a registered interior designer as provided in chapter 623 of NRS;

(3) Engaged in the practice of residential design as provided in chapter 623 of NRS;

(4) Engaged in the practice of landscape architecture as provided in chapter 623A of NRS; and

(5) Engaged in the practice of professional engineering as provided in chapter 625 of NRS.

(b) Medicine, homeopathy and osteopathy, and may be composed of persons engaged in the practice of medicine as provided in chapter 630 of NRS, persons engaged in the practice of homeopathic medicine as provided in chapter 630A of NRS and persons engaged in the practice of osteopathic medicine as provided in chapter 633 of NRS. Such a professional corporation may market and manage additional professional corporations which are organized to render a professional service relating to medicine, homeopathy and osteopathy.

(c) Mental health services, and may be composed of the following persons, in any number and in any combination:

(1) Any psychologist who is licensed to practice in this State;

(2) Any social worker who holds a master's degree in social work and who is licensed by this State as a clinical social worker;

(3) Any registered nurse who is licensed to practice professional nursing in this State and who holds a master's degree in the field of psychiatric nursing; ~~and~~

(4) Any marriage and family therapist who is licensed by this State pursuant to chapter 641A of NRS ~~[sections 2 to 68, inclusive, of this act]; and~~

(5) Any clinical professional counselor who is licensed by this State pursuant to sections 2 to 68, inclusive, of this act.

➡ Such a professional corporation may market and manage additional professional corporations which are organized to render a professional service relating to mental health services pursuant to this paragraph.

3. A professional corporation may render a professional service only through its officers and employees who are licensed or otherwise authorized by law to render the professional service.

Sec. 85. NRS 176.133 is hereby amended to read as follows:

176.133 As used in NRS 176.133 to 176.159, inclusive, unless the context otherwise requires:

1. "Person professionally qualified to conduct psychosexual evaluations" means a person who has received training in conducting psychosexual evaluations and is:

(a) A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc.;

(b) A psychologist licensed to practice in this State;

(c) A social worker holding a master's degree in social work and licensed in this State as a clinical social worker;

(d) A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State; ~~or~~

(e) A marriage and family therapist licensed in this State pursuant to chapter 641A of NRS ~~[-] [sections 2 to 68, inclusive, of this act,] ; or~~

(f) *A clinical professional counselor licensed in this State pursuant to sections 2 to 68, inclusive, of this act.*

2. "Psychosexual evaluation" means an evaluation conducted pursuant to NRS 176.139.

3. "Sexual offense" means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Statutory sexual seduction pursuant to NRS 200.368, if punished as a felony;

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(d) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation and is punished as a felony;

(e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(f) Incest pursuant to NRS 201.180;

(g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195, if punished as a felony;

(h) Open or gross lewdness pursuant to NRS 201.210, if punished as a felony;

(i) Indecent or obscene exposure pursuant to NRS 201.220, if punished as a felony;

(j) Lewdness with a child pursuant to NRS 201.230;

(k) Sexual penetration of a dead human body pursuant to NRS 201.450;

(l) Luring a child or mentally ill person pursuant to NRS 201.560, if punished as a felony;

(m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive, if punished as a felony; or

(n) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

Sec. 86. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;
(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require him to make home visits.

(c) "Provider of health care" means a physician, a physician assistant, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, an osteopathic physician's assistant, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a *clinical professional counselor* and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) ~~of this subsection~~ does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(c) If paragraph (d) ~~of this subsection~~ does not apply to the circumstances of the crime and if the assault is committed upon an officer, a

provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event, and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

Sec. 87. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human

Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and family therapist, *clinical professional counselor*, alcohol or drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Any employee of the Department of Health and Human Services.

(g) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(h) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(i) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(j) Every social worker.

(k) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney and the Aging Services Division of the Department of Health and Human Services his written findings. The written findings must include the

information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded to the Aging Services Division within 90 days after the completion of the report.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 88. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and family therapist, *clinical professional counselor*, alcohol or drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 89. NRS 200.5095 is hereby amended to read as follows:

200.5095 1. Reports made pursuant to NRS 200.5093, 200.50935 and 200.5094, and records and investigations relating to those reports, are confidential.

2. A person, law enforcement agency or public or private agency, institution or facility who willfully releases data or information concerning the reports and investigation of the abuse, neglect, exploitation or isolation of older persons or vulnerable persons, except:

(a) Pursuant to a criminal prosecution;

(b) Pursuant to NRS 200.50982; or

(c) To persons or agencies enumerated in subsection 3,

↪ is guilty of a misdemeanor.

3. Except as otherwise provided in subsection 2 and NRS 200.50982, data or information concerning the reports and investigations of the abuse, neglect, exploitation or isolation of an older person or a vulnerable person is available only to:

(a) A physician who is providing care to an older person or a vulnerable person who may have been abused, neglected, exploited or isolated;

(b) An agency responsible for or authorized to undertake the care, treatment and supervision of the older person or vulnerable person;

(c) A district attorney or other law enforcement official who requires the information in connection with an investigation of the abuse, neglect, exploitation or isolation of the older person or vulnerable person;

(d) A court which has determined, in camera, that public disclosure of such information is necessary for the determination of an issue before it;

(e) A person engaged in bona fide research, but the identity of the subjects of the report must remain confidential;

(f) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

(g) Any comparable authorized person or agency in another jurisdiction;

(h) A legal guardian of the older person or vulnerable person, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the legal guardian of the older person or vulnerable person is not the person suspected of such abuse, neglect, exploitation or isolation;

(i) If the older person or vulnerable person is deceased, the executor or administrator of his estate, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the executor

or administrator is not the person suspected of such abuse, neglect, exploitation or isolation; or

(j) The older person or vulnerable person named in the report as allegedly being abused, neglected, exploited or isolated, if that person is not legally incompetent.

4. If the person who is reported to have abused, neglected, exploited or isolated an older person or a vulnerable person is the holder of a license or certificate issued pursuant to chapters 449, 630 to 641B, inclusive, or 654 of NRS, *or sections 2 to 68, inclusive, of this act*, information contained in the report must be submitted to the board that issued the license.

Sec. 90. ~~[NRS 209.448 is hereby amended to read as follows:~~

~~209.448 1. An offender who has no serious infraction of the regulations of the Department or the laws of the State recorded against him must be allowed, in addition to the credits provided pursuant to NRS 209.433, 209.443, 209.446 or 209.4465, a deduction of not more than 30 days from the maximum term of his sentence for the successful completion of a program of treatment for the abuse of alcohol or drugs which is conducted jointly by the Department and a person who is licensed or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse~~

~~counselor intern pursuant to [chapter 641C of NRS.] sections 2 to 68, inclusive, of this act.~~

~~2. The provisions of this section apply to any offender who is sentenced on or after October 1, 1991. (Deleted by amendment.)~~

Sec. 91. ~~[NRS 211.340 is hereby amended to read as follows:~~

~~211.340 1. In addition to the credits on a term of imprisonment provided for in NRS 211.310, 211.320 and 211.330, the sheriff of the county or the chief of police of the municipality in which a prisoner is incarcerated may deduct not more than 5 days from his term of imprisonment if the prisoner:~~

~~(a) Successfully completes a program of treatment for the abuse of alcohol or drugs which is conducted jointly by the local detention facility in which he is incarcerated and a person who is licensed or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern pursuant to [chapter 641C of NRS.] sections 2 to 68, inclusive, of this act; and~~

~~(b) Is awarded a certificate evidencing his successful completion of the program.~~

~~2. The provisions of this section apply to any prisoner who is sentenced on or after October 1, 1991, to a term of imprisonment of 90 days or more. (Deleted by amendment.)~~

Sec. 92. NRS 218.825 is hereby amended to read as follows:

218.825 1. Except as otherwise provided in subsection 2, each board created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS and sections 2 to 68, inclusive, of this act shall:

(a) If the revenue of the board from all sources is less than \$50,000 for any fiscal year, prepare a balance sheet for that fiscal year on the form provided by the Legislative Auditor and file the balance sheet with the Legislative Auditor and the Chief of the Budget Division of the Department of Administration on or before December 1 following the end of that fiscal year. The Legislative Auditor shall prepare and make available a form that must be used by a board to prepare such a balance sheet.

(b) If the revenue of the board from all sources is \$50,000 or more for any fiscal year, engage the services of a certified public accountant or public accountant, or firm of either of such accountants, to audit all its fiscal records for that fiscal year and file a report of the audit with the Legislative Auditor and the Chief of the Budget Division of the Department of Administration on or before December 1 following the end of that fiscal year.

2. In lieu of preparing a balance sheet or having an audit conducted for a single fiscal year, a board may engage the services of a certified public accountant or public accountant, or firm of either of such accountants, to audit all its fiscal records for a period covering two successive fiscal years. If such an audit is conducted, the board shall file the report of the audit with the Legislative Auditor and the Chief of the Budget Division of the Department

of Administration on or before December 1 following the end of the second fiscal year.

3. The cost of each audit conducted pursuant to subsection 1 or 2 must be paid by the board that is audited. Each such audit must be conducted in accordance with generally accepted auditing standards, and all financial statements must be prepared in accordance with generally accepted principles of accounting for special revenue funds.

4. Whether or not a board is required to have its fiscal records audited pursuant to subsection 1 or 2, the Legislative Auditor shall audit the fiscal records of any such board whenever directed to do so by the Legislative Commission. When the Legislative Commission directs such an audit, the Legislative Commission shall also determine who is to pay the cost of the audit.

5. A person who is a state officer or employee of a board is guilty of nonfeasance if the person:

(a) Is responsible for preparing a balance sheet or having an audit conducted pursuant to this section or is responsible for preparing or maintaining the fiscal records that are necessary to prepare a balance sheet or have an audit conducted pursuant to this section; and

(b) Knowingly fails to prepare the balance sheet or have the audit conducted pursuant to this section or knowingly fails to prepare or maintain the fiscal records that are necessary to prepare a balance sheet or have an audit conducted pursuant to this section.

6. In addition to any other remedy or penalty, a person who is guilty of nonfeasance pursuant to this section forfeits his state office or employment and may not be appointed to a state office or position of state employment for a period of 2 years following the forfeiture. The provisions of this subsection do not apply to a state officer who may be removed from office only by impeachment pursuant to Article 7 of the Nevada Constitution.

Sec. 93. NRS 284.013 is hereby amended to read as follows:

284.013 1. Except as otherwise provided in subsection 4, this chapter does not apply to:

(a) Agencies, bureaus, commissions, officers or personnel in the Legislative Department or the Judicial Department of State Government, including the Commission on Judicial Discipline;

(b) Any person who is employed by a board, commission, committee or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS ~~and~~ *and sections 2 to 68, inclusive, of this act*; or

(c) Officers or employees of any agency of the Executive Department of the State Government who are exempted by specific statute.

2. Except as otherwise provided in subsection 3, the terms and conditions of employment of all persons referred to in subsection 1, including salaries not prescribed by law and leaves of absence, including, without limitation, annual leave and sick and disability leave, must be fixed by the appointing or

employing authority within the limits of legislative appropriations or authorizations.

3. Except as otherwise provided in this subsection, leaves of absence prescribed pursuant to subsection 2 must not be of lesser duration than those provided for other state officers and employees pursuant to the provisions of this chapter. The provisions of this subsection do not govern the Legislative Commission with respect to the personnel of the Legislative Counsel Bureau.

4. Any board, commission, committee or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS *and sections 2 to 68, inclusive, of this act* which contracts for the services of a person, shall require the contract for those services to be in writing. The contract must be approved by the State Board of Examiners before those services may be provided.

Sec. 94. NRS 353.005 is hereby amended to read as follows:

353.005 The provisions of this chapter do not apply to boards created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS *and sections 2 to 68, inclusive, of this act* and the officers and employees of those boards.

Sec. 95. NRS 353A.020 is hereby amended to read as follows:

353A.020 1. The Director, in consultation with the Committee and Legislative Auditor, shall adopt a uniform system of internal accounting and administrative control for agencies. The elements of the system must include, without limitation:

(a) A plan of organization which provides for a segregation of duties appropriate to safeguard the assets of the agency;

(b) A plan which limits access to assets of the agency to persons who need the assets to perform their assigned duties;

(c) Procedures for authorizations and recordkeeping which effectively control accounting of assets, liabilities, revenues and expenses;

(d) A system of practices to be followed in the performance of the duties and functions of each agency; and

(e) An effective system of internal review.

2. The Director, in consultation with the Committee and Legislative Auditor, may modify the system whenever he considers it necessary.

3. Each agency shall develop written procedures to carry out the system of internal accounting and administrative control adopted pursuant to this section.

4. For the purposes of this section, "agency" does not include:

(a) A board created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS ~~[-]~~ *and sections 2 to 68, inclusive, of this act*.

(b) The Nevada System of Higher Education.

(c) The Public Employees' Retirement System.

(d) The Housing Division of the Department of Business and Industry.

(e) The Colorado River Commission of Nevada.

Sec. 96. NRS 353A.025 is hereby amended to read as follows:

353A.025 1. The head of each agency shall periodically review the agency's system of internal accounting and administrative control to determine whether it is in compliance with the uniform system of internal accounting and administrative control for agencies adopted pursuant to subsection 1 of NRS 353A.020.

2. On or before July 1 of each even-numbered year, the head of each agency shall report to the Director whether the agency's system of internal accounting and administrative control is in compliance with the uniform system adopted pursuant to subsection 1 of NRS 353A.020. The reports must be made available for inspection by the members of the Legislature.

3. For the purposes of this section, "agency" does not include:

(a) A board created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS ~~[-]~~ and sections 2 to 68, inclusive, of this act.

(b) The Nevada System of Higher Education.

(c) The Public Employees' Retirement System.

(d) The Housing Division of the Department of Business and Industry.

(e) The Colorado River Commission of Nevada.

4. The Director shall, on or before the first Monday in February of each odd-numbered year, submit a report on the status of internal accounting and administrative controls in agencies to the:

(a) Director of the Legislative Counsel Bureau for transmittal to the:

(1) Senate Standing Committee on Finance; and

(2) Assembly Standing Committee on Ways and Means;

(b) Governor; and

(c) Legislative Auditor.

5. The report submitted by the Director pursuant to subsection 4 must include, without limitation:

(a) The identification of each agency that has not complied with the requirements of subsections 1 and 2;

(b) The identification of each agency that does not have an effective method for reviewing its system of internal accounting and administrative control; and

(c) The identification of each agency that has weaknesses in its system of internal accounting and administrative control, and the extent and types of ~~[such]~~ those weaknesses.

Sec. 97. NRS 353A.045 is hereby amended to read as follows:

353A.045 The Chief shall:

1. Report to the Director.

2. Develop long-term and annual work plans to be based on the results of periodic documented risk assessments. The annual work plan must list the agencies to which the Division will provide training and assistance and be submitted to the Director for approval. Such agencies must not include:

(a) A board created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS ~~and~~ *sections 2 to 68, inclusive, of this act.*

(b) The Nevada System of Higher Education.

(c) The Public Employees' Retirement System.

(d) The Housing Division of the Department of Business and Industry.

(e) The Colorado River Commission of Nevada.

3. Provide a copy of the approved annual work plan to the Legislative Auditor.

4. In consultation with the Director, prepare a plan for auditing executive branch agencies for each fiscal year and present the plan to the Committee for its review and approval. Each plan for auditing must:

(a) State the agencies which will be audited, the proposed scope and assignment of those audits and the related resources which will be used for those audits; and

(b) Ensure that the internal accounting, administrative controls and financial management of each agency are reviewed periodically.

5. Perform the audits of the programs and activities of the agencies in accordance with the plan approved pursuant to subsection 5 of NRS 353A.038 and prepare audit reports of his findings.

6. Review each agency that is audited pursuant to subsection 5 and advise those agencies concerning internal accounting, administrative controls and financial management.

7. Submit to each agency that is audited pursuant to subsection 5 analyses, appraisals and recommendations concerning:

(a) The adequacy of the internal accounting and administrative controls of the agency; and

(b) The efficiency and effectiveness of the management of the agency.

8. Report any possible abuses, illegal actions, errors, omissions and conflicts of interest of which the Division becomes aware during the performance of an audit.

9. Adopt the standards of the Institute of Internal Auditors for conducting and reporting on internal audits.

10. Consult with the Legislative Auditor concerning the plan for auditing and the scope of audits to avoid duplication of effort and undue disruption of the functions of agencies that are audited pursuant to subsection 5.

11. Appoint a Manager of Internal Controls.

Sec. 98. NRS 372.7285 is hereby amended to read as follows:

372.7285 1. In administering the provisions of NRS 372.325, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged and disabled persons established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, *clinical professional counselor*, chiropractor or doctor of Oriental medicine in any form.

Sec. 99. NRS 374.731 is hereby amended to read as follows:

374.731 1. In administering the provisions of NRS 374.330, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged and disabled persons established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist,

licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, *clinical professional counselor*, chiropractor or doctor of Oriental medicine in any form.

Sec. 100. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of his home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, psychiatrist, psychologist, marriage and family therapist, *clinical professional counselor*, 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 the appropriate medical examiner or coroner, who shall investigate the report and submit to an agency which provides child welfare services his written findings. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 101. NRS 433.209 is hereby amended to read as follows:

433.209 "Person professionally qualified in the field of psychiatric mental health" means:

1. A psychiatrist licensed to practice medicine in the State of Nevada and certified by the American Board of Psychiatry and Neurology;

2. A psychologist licensed to practice in this State;
3. A social worker who holds a master's degree in social work, is licensed by the State as a clinical social worker and is employed by the Division;
4. A registered nurse who:
 - (a) Is licensed to practice professional nursing in this State;
 - (b) Holds a master's degree in the field of psychiatric nursing; and
 - (c) Is employed by the Division ; ~~{-}~~
5. A marriage and family therapist licensed pursuant to chapter 641A of NRS ~~{-} sections 2 to 68, inclusive, of this act;-}~~ ; or
6. A clinical professional counselor licensed pursuant to sections 2 to 68, inclusive, of this act.

Sec. 102. NRS 433.265 is hereby amended to read as follows:

433.265 Any person employed by the Division as a psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, registered nurse or social worker must be licensed or certified by the appropriate state licensing board for his respective profession.

Sec. 103. NRS 433A.018 is hereby amended to read as follows:

433A.018 "Person professionally qualified in the field of psychiatric mental health" means:

1. A psychiatrist licensed to practice medicine in this State who is certified by the American Board of Psychiatry and Neurology;
2. A psychologist licensed to practice in this State;
3. A social worker who holds a master's degree in social work, is licensed by the State as a clinical social worker and is employed by the Division;
4. A registered nurse who:
 - (a) Is licensed to practice professional nursing in this State;
 - (b) Holds a master's degree in the field of psychiatric nursing; and
 - (c) Is employed by the Division; ~~{-}~~
5. A marriage and family therapist licensed pursuant to chapter 641A of NRS ~~{-} sections 2 to 68, inclusive, of this act;-}~~ ; or
6. A clinical professional counselor licensed pursuant to sections 2 to 68, inclusive, of this act.

Sec. 104. NRS 433A.160 is hereby amended to read as follows:

433A.160 1. Except as otherwise provided in subsection 2, an application for the emergency admission of an allegedly mentally ill person for evaluation, observation and treatment may only be made by an accredited agent of the Department, an officer authorized to make arrests in the State of Nevada or a physician, psychologist, marriage and family therapist, clinical professional counselor, social worker or registered nurse. The agent, officer, physician, psychologist, marriage and family therapist, clinical professional counselor, social worker or registered nurse may:

- (a) Without a warrant:

(1) Take an allegedly mentally ill person into custody to apply for the emergency admission of the person for evaluation, observation and treatment; and

(2) Transport the allegedly mentally ill person to a public or private mental health facility or hospital for that purpose, or arrange for the person to be transported by:

(I) A local law enforcement agency;

(II) A system for the nonemergency medical transportation of persons whose operation is authorized by the Transportation Services Authority;

(III) An entity that is exempt pursuant to NRS 706.745 from the provisions of NRS 706.386 or 706.421; or

(IV) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

↪ only if the agent, officer, physician, psychologist, marriage and family therapist, *clinical professional counselor*, social worker or registered nurse has, based upon his personal observation of the allegedly mentally ill person, probable cause to believe that the person is a mentally ill person and, because of that illness, is likely to harm himself or others if allowed his liberty.

(b) Apply to a district court for an order requiring:

(1) Any peace officer to take an allegedly mentally ill person into custody to allow the applicant for the order to apply for the emergency admission of the allegedly mentally ill person for evaluation, observation and treatment; and

(2) Any agency, system or service described in subparagraph (2) of paragraph (a) to transport the allegedly mentally ill person to a public or private mental health facility or hospital for that purpose.

↪ The district court may issue such an order only if it is satisfied that there is probable cause to believe that the allegedly mentally ill person is a mentally ill person and, because of that illness, is likely to harm himself or others if allowed his liberty.

2. An application for the emergency admission of an allegedly mentally ill person for evaluation, observation and treatment may be made by a spouse, parent, adult child or legal guardian of the person. The spouse, parent, adult child or legal guardian and any other person who has a legitimate interest in the allegedly mentally ill person may apply to a district court for an order described in paragraph (b) of subsection 1.

3. The application for the emergency admission of an allegedly mentally ill person for evaluation, observation and treatment must reveal the circumstances under which the person was taken into custody and the reasons therefor.

4. ~~[As used in subsection 1, "an accredited agent of the Department" means any person appointed or designated by the Director of the Department to take into custody and transport to a mental health facility pursuant to subsections 1 and 2 those persons in need of emergency admission.~~

~~5.7~~ Except as otherwise provided in this subsection, each person admitted to a public or private mental health facility or hospital under an emergency admission must be evaluated at the time of admission by a psychiatrist or a psychologist. If a psychiatrist or a psychologist is not available to conduct an evaluation at the time of admission, a physician may conduct the evaluation. Each such emergency admission must be approved by a psychiatrist.

5. *As used in this section, "an accredited agent of the Department" means any person appointed or designated by the Director of the Department to take into custody and transport to a mental health facility pursuant to subsections 1 and 2 those persons in need of emergency admission.*

Sec. 105. NRS 433B.090 is hereby amended to read as follows:

433B.090 "Person professionally qualified in the field of psychiatric mental health" means:

1. A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology;

2. A psychologist licensed to practice in this State;

3. A social worker who holds a master's degree in social work, is licensed by the State as a clinical social worker and is employed by the Division;

4. A registered nurse who:

(a) Is licensed to practice professional nursing in this State;

(b) Holds a master's degree in the field of psychiatric nursing; and

(c) Is employed by the Division or the Division of Mental Health and Developmental Services of the Department; ~~or~~

5. A marriage and family therapist licensed pursuant to chapter 641A of NRS ~~[sections 2 to 68, inclusive, of this act.]~~ or

6. *A clinical professional counselor licensed pursuant to sections 2 to 68, inclusive, of this act.*

Sec. 106. NRS 433B.160 is hereby amended to read as follows:

433B.160 1. A person employed by the Division as a psychiatrist, psychologist, marriage and family therapist, *clinical professional counselor*, registered nurse or social worker must be licensed or certified by the appropriate state licensing board for his respective profession.

2. Any psychiatrist who is employed by the Division must be certified by the American Board of Psychiatry and Neurology within 5 years after his first date of employment with the Division. The Administrator shall terminate the employment of any psychiatrist who fails to receive that certification.

Sec. 107. NRS 433B.170 is hereby amended to read as follows:

433B.170 The Administrator shall not employ any psychiatrist, psychologist, social worker, registered nurse, ~~or~~ marriage and family therapist *or clinical professional counselor* who is unable to demonstrate proficiency in the oral and written expression of the English language.

Sec. 108. NRS 439B.225 is hereby amended to read as follows:

439B.225 1. As used in this section, "licensing board" means any division or board empowered to adopt standards for licensing or registration or for the renewal of licenses or certificates of registration pursuant to NRS 435.3305 to 435.339, inclusive, chapter 449, 625A, 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 639, 640, 640A, 641, 641A, 641B, 641C, 652 or 654 of NRS ~~[-] or sections 2 to 68, inclusive, of this act.~~

2. The Committee shall review each regulation that a licensing board proposes or adopts that relates to standards for licensing or registration or to the renewal of a license or certificate of registration issued to a person or facility regulated by the board, giving consideration to:

- (a) Any oral or written comment made or submitted to it by members of the public or by persons or facilities affected by the regulation;
- (b) The effect of the regulation on the cost of health care in this State;
- (c) The effect of the regulation on the number of licensed or registered persons and facilities available to provide services in this State; and
- (d) Any other related factor the Committee deems appropriate.

3. After reviewing a proposed regulation, the Committee shall notify the agency of the opinion of the Committee regarding the advisability of adopting or revising the proposed regulation.

4. The Committee shall recommend to the Legislature as a result of its review of regulations pursuant to this section any appropriate legislation.

Sec. 109. NRS 442.003 is hereby amended to read as follows:

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

1. "Advisory Board" means the Advisory Board on Maternal and Child Health.

2. "Department" means the Department of Health and Human Services.

3. "Director" means the Director of the Department.

4. "Fetal alcohol syndrome" includes fetal alcohol effects.

5. "Health Division" means the Health Division of the Department.

6. "Obstetric center" has the meaning ascribed to it in NRS 449.0155.

7. "Provider of health care or other services" means:

(a) An alcohol and drug abuse counselor who is licensed or certified pursuant to chapter 641C of NRS; ~~sections 2 to 68, inclusive, of this act;~~

(b) A physician or a physician assistant who is licensed pursuant to chapter 630 or an osteopathic physician who is licensed pursuant to chapter 633 of NRS and who practices in the area of obstetrics and gynecology, family practice, internal medicine, pediatrics or psychiatry;

(c) A licensed nurse;

(d) A licensed psychologist;

(e) A licensed marriage and family therapist;

(f) A licensed clinical professional counselor;

(g) A licensed social worker; or

~~[(g)]~~ (h) The holder of a certificate of registration as a pharmacist.

Sec. 110. ~~NRS 484.37937 is hereby amended to read as follows:~~

~~484.37927 1. An offender who is found guilty of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792, other than an offender who is found to have a concentration of alcohol of 0.18 or more in his blood or breath, may, at that time or any time before he is sentenced, apply to the court to undergo a program of treatment for alcoholism or drug abuse which is certified by the Health Division of the Department of Health and Human Services for at least 6 months. The court shall authorize that treatment if:~~

~~(a) The offender is diagnosed as an alcoholic or abuser of drugs by:~~

~~(1) An alcohol and drug abuse counselor who is licensed or certified pursuant to [chapter 641C of NRS] sections 2 to 68, inclusive, of this act to make that diagnosis; or~~

~~(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners;~~

~~(b) The offender agrees to pay the cost of the treatment to the extent of his financial resources; and~~

~~(c) The offender has served or will serve a term of imprisonment in jail of 1 day, or has performed or will perform 24 hours of community service.~~

~~2. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the question of whether the offender is eligible to undergo a program of treatment for alcoholism or drug abuse. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion. The hearing must be limited to the question of whether the offender is eligible to undergo such a program of treatment.~~

~~3. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter upon affidavits and other information before the court.~~

~~4. If the court grants an application for treatment, the court shall:~~

~~(a) Immediately sentence the offender and enter judgment accordingly.~~

~~(b) Suspend the sentence of the offender for not more than 3 years upon the condition that the offender be accepted for treatment by a treatment facility, that he complete the treatment satisfactorily and that he comply with any other condition ordered by the court.~~

~~(c) Advise the offender that:~~

~~(1) If he is accepted for treatment by such a facility, he may be placed under the supervision of the facility for a period not to exceed 3 years and during treatment he may be confined in an institution or, at the discretion of the facility, released for treatment or supervised aftercare in the community.~~

~~(2) If he is not accepted for treatment by such a facility or he fails to complete the treatment satisfactorily, he shall serve the sentence imposed by the court. Any sentence of imprisonment must be reduced by a time equal to that which he served before beginning treatment.~~

~~(3) If he completes the treatment satisfactorily, his sentence will be reduced to a term of imprisonment which is no longer than that provided for the offense in paragraph (c) of subsection 1 and a fine of not more than the minimum fine provided for the offense in NRS 484.3792, but the conviction must remain on his record of criminal history.~~

~~5. The court shall administer the program of treatment pursuant to the procedures provided in NRS 458.320 and 458.330, except that the court:~~

~~(a) Shall not defer the sentence, set aside the conviction or impose conditions upon the election of treatment except as otherwise provided in this section.~~

~~(b) May immediately revoke the suspension of sentence for a violation of any condition of the suspension.~~

~~6. The court shall notify the Department, on a form approved by the Department, upon granting the application of the offender for treatment and his failure to be accepted for or complete treatment.] (Deleted by amendment.)~~

Sec. 111. ~~[NRS 484.3794 is hereby amended to read as follows:~~

~~484.3794 1. An offender who is found guilty of a violation of NRS 484.379 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792 may, at that time or any time before he is sentenced, apply to the court to undergo a program of treatment for alcoholism or drug abuse which is certified by the Health Division of the Department of Health and Human Services for at least 1 year if:~~

~~(a) The offender is diagnosed as an alcoholic or abuser of drugs by:~~

~~(1) An alcohol and drug abuse counselor who is licensed or certified pursuant to [chapter 641C of NRS] sections 2 to 68, inclusive, of this act to make that diagnosis; or~~

~~(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners;~~

~~(b) The offender agrees to pay the costs of the treatment to the extent of his financial resources; and~~

~~(c) The offender has served or will serve a term of imprisonment in jail of 5 days and, if required pursuant to NRS 484.3792, has performed or will perform not less than one-half of the hours of community service.~~

~~2. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the matter. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion.~~

~~3. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter upon affidavits and other information before the court.~~

~~4. If the court determines that an application for treatment should be granted, the court shall:~~

~~(a) Immediately sentence the offender and enter judgment accordingly.~~

~~(b) Suspend the sentence of the offender for not more than 3 years upon the condition that the offender be accepted for treatment by a treatment facility, that he complete the treatment satisfactorily and that he comply with any other condition ordered by the court.~~

~~(c) Advise the offender that:~~

~~(1) If he is accepted for treatment by such a facility, he may be placed under the supervision of the facility for a period not to exceed 3 years and during treatment he may be confined in an institution or, at the discretion of the facility, released for treatment or supervised aftercare in the community.~~

~~(2) If he is not accepted for treatment by such a facility or he fails to complete the treatment satisfactorily, he shall serve the sentence imposed by the court. Any sentence of imprisonment must be reduced by a time equal to that which he served before beginning treatment.~~

~~(3) If he completes the treatment satisfactorily, his sentence will be reduced to a term of imprisonment which is no longer than that provided for the offense in paragraph (c) of subsection 1 and a fine of not more than the minimum provided for the offense in NRS 484.3792, but the conviction must remain on his record of criminal history.~~

~~5. The court shall administer the program of treatment pursuant to the procedures provided in NRS 458.320 and 458.330, except that the court:~~

~~(a) Shall not defer the sentence, set aside the conviction or impose conditions upon the election of treatment except as otherwise provided in this section.~~

~~(b) May immediately revoke the suspension of sentence for a violation of a condition of the suspension.~~

~~6. The court shall notify the Department, on a form approved by the Department, upon granting the application of the offender for treatment and his failure to be accepted for or complete treatment.] (Deleted by amendment.)~~

Sec. 112. ~~[NRS 484.37943 is hereby amended to read as follows:~~

~~484.37943 1. If an offender is found guilty of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792 and if the concentration of alcohol in the offender's blood or breath at the time of the offense was 0.18 or more, or if an offender is found guilty of a violation of NRS 484.379 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484.3792, the court shall, before sentencing the offender, require an evaluation of the offender pursuant to subsection 3, 4, 5 or 6 to determine whether he is an abuser of alcohol or other drugs.~~

~~2. If an offender is convicted of a violation of NRS 484.379 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484.3792 and if the offender is under 21 years of age at the time of the violation, the court shall, before sentencing the offender, require an evaluation of the offender pursuant to subsection 3, 4, 5 or 6 to determine whether he is an abuser of alcohol or other drugs.~~

~~3.—Except as otherwise provided in subsection 4, 5 or 6, the evaluation of an offender pursuant to this section must be conducted at an evaluation center by:~~

~~(a) An alcohol and drug abuse counselor who is licensed or certified pursuant to [chapter 641C of NRS] sections 2 to 68, inclusive, of this act to make that evaluation; or~~

~~(b) A physician who is certified to make that evaluation by the Board of Medical Examiners;~~

~~who shall report to the court the results of the evaluation and make a recommendation to the court concerning the length and type of treatment required for the offender.~~

~~4.—The evaluation of an offender who resides more than 30 miles from an evaluation center may be conducted outside an evaluation center by a person who has the qualifications set forth in subsection 3. The person who conducts the evaluation shall report to the court the results of the evaluation and make a recommendation to the court concerning the length and type of treatment required for the offender.~~

~~5.—The evaluation of an offender who resides in another state may, upon approval of the court, be conducted in the state where the offender resides by a physician or other person who is authorized by the appropriate governmental agency in that state to conduct such an evaluation. The offender shall ensure that the results of the evaluation and the recommendation concerning the length and type of treatment for the offender are reported to the court.~~

~~6.—The evaluation of an offender who resides in this State may, upon approval of the court, be conducted in another state by a physician or other person who is authorized by the appropriate governmental agency in that state to conduct such an evaluation if the location of the physician or other person in the other state is closer to the residence of the offender than the nearest location in this State at which an evaluation may be conducted. The offender shall ensure that the results of the evaluation and the recommendation concerning the length and type of treatment for the offender are reported to the court.~~

~~7.—An offender who is evaluated pursuant to this section shall pay the cost of the evaluation. An evaluation center or a person who conducts an evaluation in this State outside an evaluation center shall not charge an offender more than \$100 for the evaluation.] (Deleted by amendment.)~~

Sec. 113. ~~[NRS 484.3796 is hereby amended to read as follows:~~

~~484.3796 1.—Before sentencing an offender for a violation of NRS 484.379 that is punishable as a felony pursuant to NRS 484.3792 or a violation of NRS 484.3795 or 484.37955, the court shall require that the offender be evaluated to determine whether he is an abuser of alcohol or drugs and whether he can be treated successfully for his condition.~~

~~2.—The evaluation must be conducted by:~~

~~(a) An alcohol and drug abuse counselor who is licensed or certified pursuant to [chapter 641C of NRS] sections 2 to 68, inclusive, of this act to make such an evaluation;~~

~~(b) A physician who is certified to make such an evaluation by the Board of Medical Examiners; or~~

~~(c) A psychologist who is certified to make such an evaluation by the Board of Psychological Examiners.~~

~~3. The alcohol and drug abuse counselor, physician or psychologist who conducts the evaluation shall immediately forward the results of the evaluation to the Director of the Department of Corrections.} (Deleted by amendment.)~~

Sec. 114. [NRS 488.430 is hereby amended to read as follows:

~~488.430 1. Before sentencing a defendant pursuant to NRS 488.420, 488.425 or 488.427, the court shall require that the defendant be evaluated to determine whether he is an abuser of alcohol or drugs and whether he can be treated successfully for his condition.~~

~~2. The evaluation must be conducted by:~~

~~(a) An alcohol and drug abuse counselor who is licensed or certified pursuant to [chapter 641C of NRS] sections 2 to 68, inclusive, of this act to make such an evaluation;~~

~~(b) A physician who is certified to make such an evaluation by the Board of Medical Examiners; or~~

~~(c) A psychologist who is certified to make such an evaluation by the Board of Psychological Examiners.~~

~~3. The alcohol and drug abuse counselor, physician or psychologist who conducts the evaluation shall immediately forward the results of the evaluation to the Director of the Department of Corrections.} (Deleted by amendment.)~~

Sec. 115. NRS 608.0116 is hereby amended to read as follows:

608.0116 "Professional" means pertaining to an employee who is licensed or certified by the State of Nevada for and engaged in the practice of law or any of the professions regulated by chapters 623 to 645, inclusive, and 656A of NRS [-] and sections 2 to 68, inclusive, of this act.

Sec. 116. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

If any policy of health insurance provides coverage for treatment of an illness which is within the authorized scope of the practice of a clinical professional counselor, the insured is entitled to reimbursement for treatment by a clinical professional counselor who is licensed pursuant to sections 2 to 68, inclusive, of this act.

Sec. 117. [NRS 689A.0483 is hereby amended to read as follows:

~~689A.0483 If any policy of health insurance provides coverage for treatment of an illness which is within the authorized scope of the practice of a licensed marriage and family therapist, the insured is entitled to reimbursement for treatment by a marriage and family therapist who is~~

~~licensed pursuant to [chapter 641A of NRS.] sections 2 to 68, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 118. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

If any policy of group health insurance provides coverage for treatment of an illness which is within the authorized scope of the practice of a clinical professional counselor, the insured is entitled to reimbursement for treatment by a clinical professional counselor who is licensed pursuant to sections 2 to 68, inclusive, of this act.

Sec. 119. ~~[NRS 689B.0383 is hereby amended to read as follows:~~

~~689B.0383 If any policy of group health insurance provides coverage for treatment of an illness which is within the authorized scope of the practice of a licensed marriage and family therapist, the insured is entitled to reimbursement for treatment by a marriage and family therapist who is licensed pursuant to [chapter 641A of NRS.] sections 2 to 68, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 120. Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:

If any contract for hospital or medical service provides coverage for treatment of an illness which is within the authorized scope of the practice of a clinical professional counselor, the insured is entitled to reimbursement for treatment by a clinical professional counselor who is licensed pursuant to sections 2 to 68, inclusive, of this act.

Sec. 121. ~~[NRS 695B.1973 is hereby amended to read as follows:~~

~~695B.1973 If any contract for hospital or medical service provides coverage for treatment of an illness which is within the authorized scope of the practice of a licensed marriage and family therapist, the insured is entitled to reimbursement for treatment by a marriage and family therapist who is licensed pursuant to [chapter 641A of NRS.] sections 2 to 68, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 122. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

If any evidence of coverage provides coverage for treatment of an illness which is within the authorized scope of the practice of a clinical professional counselor, the insured is entitled to reimbursement for treatment by a clinical professional counselor who is licensed pursuant to sections 2 to 68, inclusive, of this act.

Sec. 123. ~~[NRS 695C.1773 is hereby amended to read as follows:~~

~~695C.1773 If any evidence of coverage provides coverage for treatment of an illness which is within the authorized scope of the practice of a licensed marriage and family therapist, the insured is entitled to reimbursement for treatment by a marriage and family therapist who is licensed pursuant to [chapter 641A of NRS.] sections 2 to 68, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 124. ~~[Section 234 of chapter 501, Statutes of Nevada 2005, at page 2818, is hereby amended to read as follows:~~

~~Sec. 234. 1. This section and sections 1 to 9, inclusive, 11 to 14, inclusive, 16 to 19, inclusive, 21, 22, 24 to 27, inclusive, 29, 30, 32, 33, 35, 36, 37, 39, 40, 41, 43 to 50, inclusive, 52, 53, 54, 56 to 59, inclusive, 61 to 64, inclusive, 66 to 69, inclusive, 71, 72, 73, 75 to 78, inclusive, 80, 81, 82, 84 to 87, inclusive, 89, 90, 91, 93 to 96, inclusive, 98 to 100, inclusive, 102 to 106, inclusive, 108, 110, 111, 113, 114, 115, 117, 118, 120, 121, 122, 124 to 132, inclusive, 134 to 138, inclusive, 140 to 143, inclusive, 145 to 149, inclusive, 151, 152, 154, 155, 157, 158, 159, 161, 162, 164, 166 to 169, inclusive, 171, 172, 174, 176 to 181, inclusive, 183, 184, 186, 187, 189 to 192, inclusive, 194, 195, 197 to 200, inclusive, and 207 to 233, inclusive, of this act become effective on July 1, 2005.~~

~~2. Sections 10, 15, 20, 23, 28, 31, 34, 38, 42, 51, 55, 60, 65, 70, 74, 79, 83, 88, 92, 97, 101, 107, 109, 112, [116,] 119, [123,] 133, 139, 144, 150, 153, 156, 160, 163, 165, 170, 173, 175, 182, 185, 188, 193, 196 and 201 to 206, inclusive, of this act:~~

~~(a) 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:~~

~~(1) 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~~

~~(2) Are in arrears in the payment for the support of one or more children;~~

~~→ are repealed by the Congress of the United States; and~~

~~(b) Expire by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:~~

~~(1) 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~~

~~(2) Are in arrears in the payment for the support of one or more children;~~

~~→ are repealed by the Congress of the United States.~~

~~3. Sections 9, 14, 19, 22, 27, 30, 33, 37, 41, 50, 54, 59, 64, 69, 73, 78, 82, 87, 91, 96, 100, 106, 108, 111, 115, 118, 122, 132, 138, 143, 149, 152, 155, 159, 162, 164, 169, 172, 174, 181, 184, 187, 192 and 195 of this act expire by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each~~

~~state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:~~

~~(1) 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~~

~~(2) 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 44 and 45 of this act expire by limitation on September 30, 2005.] (Deleted by amendment.)~~

Sec. 125. ~~[1. NRS 641A.010, 641A.020, 641A.030, 641A.040, 641A.050, 641A.060, 641A.080, 641A.090, 641A.100, 641A.110, 641A.130, 641A.140, 641A.150, 641A.160, 641A.170, 641A.180, 641A.185, 641A.191, 641A.200, 641A.210, 641A.215, 641A.220, 641A.230, 641A.235, 641A.260, 641A.265, 641A.270, 641A.280, 641A.285, 641A.290, 641A.300, 641A.310, 641A.313, 641A.315, 641A.320, 641A.330, 641A.340, 641A.360, 641A.370, 641A.400, 641A.410, 641A.430, 641A.440, 641A.450, 641C.010, 641C.020, 641C.030, 641C.040, 641C.050, 641C.060, 641C.070, 641C.080, 641C.090, 641C.100, 641C.105, 641C.110, 641C.130, 641C.150, 641C.160, 641C.170, 641C.180, 641C.190, 641C.200, 641C.210, 641C.220, 641C.250, 641C.260, 641C.280, 641C.290, 641C.300, 641C.310, 641C.320, 641C.350, 641C.360, 641C.390, 641C.420, 641C.430, 641C.435, 641C.440, 641C.450, 641C.460, 641C.470, 641C.500, 641C.530, 641C.700, 641C.710, 641C.720, 641C.730, 641C.740, 641C.750, 641C.760, 641C.900, 641C.910 and 641C.950 are hereby repealed.~~

~~2. Section 116 of chapter 501, Statutes of Nevada 2005, at page 2758, and section 123 of chapter 501, Statutes of Nevada 2005, at page 2762, are hereby repealed.] (Deleted by amendment.)~~

Sec. 126. 1. The Division of Health Care Financing and Policy of the Department of Health and Human Services shall conduct a study of the delivery of ~~[behavioral health]~~ clinical professional counseling under the State Plan for Medicaid. The study must address:

(a) The laws and regulations of this State and the Federal Government concerning the eligibility of ~~[marriage and family therapists, professional counselors and alcohol and drug abuse]~~ clinical professional counselors for participation and remuneration as providers of services under the State Plan for Medicaid.

(b) Methods of qualifying ~~[marriage and family therapists, professional counselors and alcohol and drug abuse]~~ clinical professional counselors to participate and be remunerated as providers of services under the State Plan for Medicaid.

2. The Division shall, not later than July 1, 2008, submit a report of the results of the study and any recommendations for legislation to the Legislative Committee on Health Care.

Sec. 127. ~~[The terms of the members of the Board of Examiners for Marriage and Family Therapists and the Board of Examiners for Alcohol, Drug and Gambling Counselors expire on July 1, 2007.] (Deleted by amendment.)~~

Sec. 128. As soon as practicable on or after July 1, 2007, the Governor shall appoint to the Board of ~~[Examiners for Behavioral Health]~~ Clinical Professional Counseling created by section 19 of this act:

1. ~~[Two members whose terms expire]~~ One member whose term expires on July 1, 2008.

2. ~~[Three]~~ Two members whose terms expire on July 1, 2009.

3. ~~[Three]~~ Two members whose terms expire on July 1, 2010.

4. ~~[Three]~~ Two members whose terms expire on July 1, 2011.

Sec. 129. Notwithstanding the provisions of section 20 of this act, the members whom the Governor is required to appoint to the Board of ~~[Examiners for Behavioral Health]~~ Clinical Professional Counseling pursuant to ~~§~~

~~1. Paragraph~~ paragraph (a) of subsection 1 of section 20 of this act, ~~[must be marriage and family therapists who, on July 1, 2007, are licensed as marriage and family therapists in this State and whose licenses are in good standing.]~~

~~2. Paragraph (b) of subsection 1 of section 20 of this act, must be alcohol and drug abuse counselors or problem gambling counselors who on July 1, 2007, are licensed as alcohol and drug abuse counselors or certified as problem gambling counselors in this State and whose licenses or certificates are in good standing.]~~

~~3. Paragraph (c) of subsection 1 of section 20 of this act,]~~ must be clinical professional counselors who, on July 1, 2007, have complied with the requirements of sections 35, 36 and 44 of this act, or are licensed as clinical professional counselors in another state whose requirements for licensure as a clinical professional counselor are substantially equivalent to the requirements for licensure as a clinical professional counselor in this State.

Sec. 130. ~~[The regulations adopted by the Board of Examiners for Marriage and Family Therapists pursuant to chapter 641A of NRS and the regulations adopted by the Board of Examiners for Alcohol, Drug and Gambling Counselors pursuant to chapter 641C of NRS before July 1, 2007, shall be deemed to have been adopted by the Board of Examiners for Behavioral Health Counseling and remain in effect until amended or repealed by the Board of Examiners for Behavioral Health Counseling.] (Deleted by amendment.)~~

Sec. 131. ~~[1. Any subpoena issued by the Board of Examiners for Marriage and Family Therapists pursuant to NRS 641A.185 or the Board of Examiners for Alcohol, Drug and Gambling Counselors pursuant to NRS 641C.730 that is in effect on July 1, 2007, shall be deemed to have been issued by the Board of Examiners for Behavioral Health Counseling.~~

~~2. Any bond or other security filed with the Board of Examiners for Marriage and Family Therapists or the Board of Examiners for Alcohol, Drug and Gambling Counselors that is in effect on July 1, 2007, shall be deemed to have been filed with the Board of Examiners for Behavioral Health Counseling.~~

~~3. Any contract or other agreement entered into by the Board of Examiners for Marriage and Family Therapists or the Board of Examiners for Alcohol, Drug and Gambling Counselors that is in effect on July 1, 2007, is binding upon the Board of Examiners for Behavioral Health Counseling and may be enforced by the Board of Examiners for Behavioral Health Counseling.] (Deleted by amendment.)~~

Sec. 132. ~~[Any legal or administrative action, including any disciplinary action, commenced by the Board of Examiners for Marriage and Family Therapists or the Board of Examiners for Alcohol, Drug and Gambling Counselors that has not been completed before July 1, 2007, shall be deemed to be an action commenced by the Board of Examiners for Behavioral Health Counseling and may only be prosecuted by the Board of Examiners for Behavioral Health Counseling if the Board determines prosecution is required or appropriate.] (Deleted by amendment.)~~

Sec. 133. ~~[The Board of Examiners for Marriage and Family Therapists and the Board of Examiners for Alcohol, Drug and Gambling Counselors shall cooperate with the Board of Examiners for Behavioral Health Counseling to ensure that the provisions of this act are carried out in an orderly manner, including, without limitation, the transfer or exchange of books and records and the transfer of money in the bank accounts of the Board of Examiners for Marriage and Family Therapists and the Board of Examiners for Alcohol, Drug and Gambling Counselors to the Board of Examiners for Behavioral Health Counseling.] (Deleted by amendment.)~~

Sec. 134. ~~[1. Any person who on July 1, 2007, holds a license as a marriage and family therapist issued by Board of Examiners for Marriage and Family Therapists pursuant to chapter 641A of NRS shall be deemed to hold a license as a marriage and family therapist issued by the Board of Examiners for Behavioral Health Counseling pursuant to sections 2 to 68, inclusive, of this act. The license remains in effect until its expiration, unless earlier suspended, terminated or revoked, or until July 1, 2008, whichever is earlier.~~

~~2. Any person who, on July 1, 2007, holds a license as an alcohol and drug abuse counselor or a certificate as an alcohol and drug abuse counselor, alcohol and drug abuse counselor intern, problem gambling counselor or problem gambling counselor intern issued by the by the Board of Examiners~~

~~for Alcohol, Drug and Gambling Counselors pursuant to chapter 641C of NRS shall be deemed to hold such a license or certificate issued by the Board of Examiners for Behavioral Health Counseling pursuant to sections 2 to 68, inclusive, of this act. The license or certificate remains in effect until its expiration, unless earlier suspended, terminated or revoked, or until July 1, 2008, whichever is earlier.~~ *(Deleted by amendment.)*

~~Sec. 135. [The Legislative Counsel shall, in preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.] *(Deleted by amendment.)*~~

Sec. 136. 1. This section and sections 1 to 33, inclusive, and 35, 36 and 37 to 135, inclusive, of this act become effective on July 1, 2007.

2. Section 33 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,
 ➤ are repealed by the Congress of the United States.

3. Section 34 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a 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; and

4. Sections 34 and 58 of this act expire by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,
 ➤ are repealed by the Congress of the United States.

5. Section 36 of this act expires by limitation on December 31, 2009.

6. Section 36.5 of this act becomes effective on January 1, 2010.

~~HEADLINES OF REPEALED SECTIONS OF NRS AND
TEXT OF REPEALED SECTIONS OF STATUTES OF NEVADA~~

~~641A.010—Legislative declaration.~~
~~641A.020—Definitions.~~
~~641A.030—"Board" defined.~~
~~641A.040—"License" defined.~~
~~641A.050—"Licensee" defined.~~
~~641A.060—"Marriage and family therapist" defined.~~
~~641A.080—"Practice of marriage and family therapy" defined.~~
~~641A.090—Creation; number and appointment of members.~~
~~641A.100—Qualifications of members; representative of general public not to participate in examination; removal for misconduct.~~
~~641A.110—Eligibility for membership.~~
~~641A.130—Meetings; quorum.~~
~~641A.140—Officers.~~
~~641A.150—Duties of Secretary-Treasurer.~~
~~641A.160—Regulations.~~
~~641A.170—General powers.~~
~~641A.180—Courses of study; Regulations specifying criteria; evaluation.~~
~~641A.185—Subpoenas; Issuance; enforcement; penalty for failure to obey.~~
~~641A.191—Certain records relating to investigation deemed confidential; certain records relating to disciplinary action deemed public records; communication and cooperation with other agencies.~~
~~641A.200—Compensation of members and employees.~~
~~641A.210—Application and fee.~~
~~641A.215—Payment of child support; Submission of certain information by applicant; grounds for denial of license; duty of Board.~~
~~641A.220—Qualifications of applicant.~~
~~641A.230—Examinations.~~
~~641A.235—License; Issuance; expiration; proration of fee.~~
~~641A.260—Renewal; Application; fee; continuing education.~~
~~641A.265—Waiver of requirements for continuing education.~~
~~641A.270—Automatic revocation of license for failure to pay biennial fee for registration; reinstatement.~~
~~641A.280—Reinstatement of license after lapse.~~
~~641A.285—Inactive license.~~
~~641A.290—Fees.~~
~~641A.300—Deposit and expenditure of money.~~
~~641A.310—Grounds for denial, suspension or revocation of license.~~
~~641A.313—Suspension of license for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of license.~~
~~641A.315—Examination to determine competence.~~
~~641A.320—Authorized disciplinary action; private reprimands prohibited; orders imposing discipline deemed public records.~~
~~641A.330—Filing of complaint.~~

~~641A.340 Notice of hearing.~~
~~641A.360 Decision of Board.~~
~~641A.370 Rehearing: Time for application.~~
~~641A.400 Reinstatement of license after revocation.~~
~~641A.410 Unlawful representation and practice as marriage and family therapist without license; exceptions.~~
~~641A.430 Unlawful to use certain terms without license.~~
~~641A.440 Penalty.~~
~~641A.450 Injunctive relief.~~
~~641C.010 Legislative declaration.~~
~~641C.020 Definitions.~~
~~641C.030 "Board" defined.~~
~~641C.040 "Certificate" defined.~~
~~641C.050 "Certified counselor" defined.~~
~~641C.060 "Certified intern" defined.~~
~~641C.070 "Habitual use" defined.~~
~~641C.080 "License" defined.~~
~~641C.090 "Licensed counselor" defined.~~
~~641C.100 "Practice of counseling alcohol and drug abusers" defined.~~
~~641C.105 "Practice of counseling problem gamblers" defined.~~
~~641C.110 "Problem gambling" defined.~~
~~641C.130 Applicability.~~
~~641C.150 Creation; appointment and qualifications of members; limitations on civil liability.~~
~~641C.160 Terms of office; removal of members; election of officers; meetings; limitations on expenses; maintenance of records; adoption of seal; quorum.~~
~~641C.170 Compensation of members; payment of per diem allowance and travel expenses.~~
~~641C.180 Location of offices; employment of attorneys, investigators and other persons.~~
~~641C.190 Payment of expenses; deposit of money; delegation of authority to take disciplinary action; deposit of fines imposed by Board; presentment of claims for attorney's fees and costs of investigation.~~
~~641C.200 Adoption of regulations.~~
~~641C.210 Duties of Secretary-Treasurer.~~
~~641C.220 Interlocal agreements with Indian tribes.~~
~~641C.250 License or certificate is revocable privilege; holder acquires no vested right.~~
~~641C.260 Application required for license or certificate; submission of fingerprints; payment of application fee.~~
~~641C.280 Payment of child support. Submission of certain information by applicant; grounds for denial of license or certificate; duty of Board.~~
~~641C.290 Examination required for license or certificate.~~

~~641C.300 Waiver of examination for person who holds license or certificate in another jurisdiction.~~

~~641C.310 Investigation and hearings related to applications for license or certificate; grounds for denial of license or certificate.~~

~~641C.320 Issuance of provisional license or certificate; period provisional license or certificate is valid; prohibition on renewal.~~

~~641C.350 Requirements for issuance of license.~~

~~641C.360 Period license is valid; scope of practice authorized by license.~~

~~641C.390 Requirements for issuance of certificate; period certificate is valid; scope of practice authorized by certificate.~~

~~641C.420 Requirements for issuance of certificate; period certificate is valid; scope of practice authorized by certificate.~~

~~641C.430 Requirements for issuance of certificate.~~

~~641C.435 Period certificate is valid; scope of practice authorized by certificate.~~

~~641C.440 Requirements for issuance of certificate; period certificate is valid; scope of practice authorized by certificate.~~

~~641C.450 Procedure for renewal on or before date of expiration.~~

~~641C.460 Procedure for renewal or restoration after date of expiration.~~

~~641C.470 Fees.~~

~~641C.500 Adoption of regulations governing certification; scope of regulations; prohibitions; inapplicability of certain provisions of chapter.~~

~~641C.530 Reports of criminal history; Use by Board in making determinations concerning licensure and certification; power of Board to require submission of fingerprints to obtain reports.~~

~~641C.700 Grounds for disciplinary action.~~

~~641C.710 Suspension of license or certificate for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of license or certificate.~~

~~641C.720 Filing of complaint; authorized disciplinary action; reinstatement of suspended or revoked license or certificate; private reprimands prohibited; orders imposing discipline deemed public records.~~

~~641C.730 Subpoenas: Issuance; enforcement; penalty for failure to obey.~~

~~641C.740 Payment of fees and mileage for witnesses.~~

~~641C.750 Deposition of witnesses; taking of evidence in another jurisdiction.~~

~~641C.760 Confidentiality of certain records of Board; exceptions.~~

~~641C.900 Unlawful to engage in practice of counseling alcohol and drug abusers or problem gamblers without being licensed or certified; exceptions.~~

~~641C.910 Unlawful to engage in certain acts, use certain titles or make certain representations without being licensed or certified; civil action for injunctive relief.~~

~~641C.950 Penalties.~~

~~Section 116 of chapter 501, Statutes of Nevada 2005.~~

~~641A.215 1. In addition to any other requirements set forth in this chapter [:~~

~~(a) An applicant for the issuance of a license as a marriage and family therapist shall include the social security number of the applicant in the application submitted to the Board.~~

~~(b) An], an applicant for the issuance or renewal of a license as a marriage and family therapist shall submit to the Board the statement prescribed by the Welfare Division of the Department of Human Resources pursuant to NRS 425.520. The statement must be completed and signed by the applicant.~~

~~2. The Board shall include the statement required pursuant to subsection 1 in:~~

~~(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or~~

~~(b) A separate form prescribed by the Board.~~

~~3. A license as a marriage and family therapist may not be issued or renewed by the Board if the applicant:~~

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

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

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

~~Section 123 of chapter 501, Statutes of Nevada 2005:~~

~~641C.280 1. In addition to any other requirements set forth in this chapter [:~~

~~(a) An applicant for the issuance of a license or certificate shall include the social security number of the applicant in the application submitted to the Board.~~

~~(b) An], an applicant for the issuance, renewal, reinstatement or restoration of a license or certificate shall submit to the Board the statement prescribed by the Welfare Division of the Department of Human Resources pursuant to NRS 425.520. The statement must be completed and signed by the applicant.~~

~~2. The Board shall include the statement required pursuant to subsection 1 in:~~

~~(a) The application or any other forms that must be submitted for the issuance, renewal, reinstatement or restoration of the license or certificate; or~~

~~(b) A separate form prescribed by the Board.~~

~~3. A license or certificate may not be issued, renewed, reinstated or restored by the Board if the applicant:~~

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

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

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

Senator Heck moved the adoption of the amendment.

Remarks by Senator Heck.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 5.

Bill read second time and ordered to third reading.

Assembly Bill No. 264.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Senate Bill No. 173 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 381 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 385 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Nolan moved that Senate Bill No. 392 be rereferred to the Committee on Legislative Operations and Elections upon return from reprint.

Remarks by Senator Nolan.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 3.

Bill read third time.

The following amendment was proposed by Senator Carlton:

Amendment No. 184.

"SUMMARY—Revises various provisions relating to the death benefits payable to surviving spouses of ~~certain police officers and firefighters.~~ deceased employees. (BDR 53-244)"

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

Legislative Counsel's Digest:

Under existing law, if the death of an employee is caused by an injury by accident arising out of and in the course of employment covered by state laws on industrial insurance, the surviving spouse of the deceased employee may receive a compensation known as a death benefit. (NRS 616C.505) The death benefit presently ends upon the surviving spouse's death or remarriage. (NRS 616C.505) ~~This~~ Section 3 of this bill allows the surviving spouse of a deceased ~~police officer or firefighter who was killed in the line of duty~~ employee to continue to receive certain compensation under the death benefit even if the surviving spouse remarries.

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

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

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

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

~~(b) Must not be paid any compensation pursuant to subsection 2 of NRS 616C.505 in one lump sum upon remarriage.~~

~~2. If the surviving spouse of a deceased police officer or firefighter becomes the spouse of another employee who thereafter dies under circumstances that would otherwise entitle the surviving spouse to be paid compensation pursuant to subsection 2 of NRS 616C.505 with respect to the other employee, the surviving spouse:~~

~~(a) Must not be paid compensation pursuant to subsection 2 of NRS 616C.505 with respect to the other employee; and~~

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

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

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

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

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

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

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

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

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

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

Sec. 2. NRS 616C.410 is hereby amended to read as follows:

616C.410 Except as otherwise provided by NRS 616C.380, 616C.495, ~~616C.505,~~ 616C.580 and 616C.595, the insurer shall not make or allow any lump-sum settlements.

~~Sec. 2.]~~ Sec. 3. NRS 616C.505 is hereby amended to read as follows:

616C.505 If an injury by accident arising out of and in the course of employment causes the death of an employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, the compensation is known as a death benefit ~~[-]~~ and is payable as follows:

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

2. ~~[To]~~ Except as otherwise provided in ~~section 1 of this act,~~ subsection 4, to the surviving spouse of the deceased employee, 66 2/3 percent of the average monthly wage is payable until his death. ~~for remarriage, with 2 years' compensation payable in one lump sum upon remarriage.]~~

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

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

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

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

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

~~(b) Each child must be paid 15 percent of the average monthly wage, up to a maximum family benefit of 66 2/3 percent of the average monthly wage.~~

~~* The provisions of this subsection do not apply to the remarriage of a surviving spouse of a deceased police officer or firefighter if the provisions of section 1 of this act apply to the surviving spouse.† If the surviving spouse of a deceased employee becomes the spouse of another employee who thereafter dies under circumstances that would otherwise entitle the surviving spouse to be paid compensation pursuant to subsection 2 with respect to the other employee, the surviving spouse:~~

~~(a) Must not be paid compensation pursuant to subsection 2 with respect to the other employee; and~~

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

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

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

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

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

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

7. The aggregate compensation payable pursuant to subsection 6 must not exceed 66 2/3 percent of the average monthly wage.

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

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

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

average monthly wage of the deceased employee at the time of the injury resulting in his death.

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

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

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

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

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

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

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

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

Sec. 4. NRS 617.460 is hereby amended to read as follows:

617.460 1. Except as otherwise provided in NRS 617.366, silicosis and diseases related to asbestos are occupational diseases and are compensable as

such when contracted by an employee and when arising out of and in the course of the employment.

2. Claims for compensation on account of silicosis or a disease related to asbestos are forever barred unless application is made to the insurer within 1 year after the date of disability or death and within 1 year after the claimant knew or should have known of the relationship between the disease and the employment.

3. Nothing in this chapter entitles an employee or his dependents to compensation, medical, hospital and nursing expenses or payment of funeral expenses for disability or death because of silicosis or a disease related to asbestos in the event of the failure or omission on the part of the employee truthfully to state, when seeking employment, the place, duration and nature of previous employment in answer to an inquiry made by the employer.

4. No compensation may be paid in case of silicosis or a disease related to asbestos unless the injured employee has been exposed to harmful quantities of silicon dioxide dust or fibers of asbestos for not less than 1 year in employment in this State covered by this chapter and chapters 616A to 616D, inclusive, of NRS.

5. Compensation on account of silicosis or a disease related to asbestos is payable only in the event of a temporary or permanent disability, or death, in accordance with the provisions of chapters 616A to 616D, inclusive, of NRS. ~~Except as otherwise provided in NRS 616C.505, the~~ The insurer shall not allow the conversion of the compensation benefits provided for in this section into the payment of a lump sum. Payment of benefits and compensation is limited to the claimant and his dependents.

6. Any claimant who has been disabled by silicosis or a disease related to asbestos before July 1, 1973, or his dependents, upon receiving the maximum sum payable, \$14,250, to which they are entitled, are not entitled to compensation from the insurer, but are entitled to continue to receive the same amount of compensation from the account for pensions for silicosis, diseases related to asbestos and other disabilities.

~~[Sec. 3.]~~ Sec. 5. The amendatory provisions of ~~sections 1 and 2 of~~ this act do not apply to a surviving spouse of a deceased ~~police officer or firefighter~~ employee if the surviving spouse is remarried before October 1, 2007.

Senator Carlton moved the adoption of the amendment.

Remarks by Senators Carlton and Hardy.

Motion lost on a division of the house.

Roll call on Senate Bill No. 3:

YEAS—19.

NAYS—Carlton, Coffin—2.

Senate Bill No. 3 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 72.

Bill read third time.

Roll call on Senate Bill No. 72:

YEAS—21.

NAYS—None.

Senate Bill No. 72 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 103.

Bill read third time.

Roll call on Senate Bill No. 103:

YEAS—21.

NAYS—None.

Senate Bill No. 103 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 105.

Bill read third time.

Roll call on Senate Bill No. 105:

YEAS—21.

NAYS—None.

Senate Bill No. 105 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 110.

Bill read third time.

Roll call on Senate Bill No. 110:

YEAS—21.

NAYS—None.

Senate Bill No. 110 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 113.

Bill read third time.

Remarks by Senators Titus and Coffin.

Roll call on Senate Bill No. 113:

YEAS—11.

NAYS—Amodei, Beers, Cegavske, Hardy, Heck, McGinness, Nolan, Raggio, Rhoads, Washington—10.

Senate Bill No. 113 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 128.

Bill read third time.

Roll call on Senate Bill No. 128:

YEAS—21.

NAYS—None.

Senate Bill No. 128 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 141.

Bill read third time.

The following amendment was proposed by Senator Townsend:

Amendment No. 575.

"SUMMARY—Contingently imposes or increases the rate of ~~the tax on transfers of real property~~ certain taxes in certain counties to fund capital projects for the county school district. (BDR 32-757)"

"AN ACT relating to taxation; contingently imposing a tax on retail sales, increasing the rate of the tax on transfers of real property and imposing a tax on residential construction in certain counties; requiring any proceeds of the ~~increased tax~~ additional taxes to be deposited in the county school district's fund for capital projects; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill imposes a sales and use tax of one-quarter of 1 percent in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County), and requires the deposit of the proceeds of the tax in the county school district's fund for capital projects.

Under existing law, subject to certain exceptions, a tax is imposed on the transfer of real property in each county. In a county whose population is 400,000 or more (currently Clark County), the tax is imposed at a rate of \$1.25 for each \$500 of value of the property. In all other counties, the tax is imposed at a rate of 65 cents for each \$500 of value. (NRS 375.020, 375.090) Section ~~1~~ 2 of this bill makes the rate of \$1.25 for each \$500 of value applicable in a county whose population is 100,000 or more, thereby increasing the rate of the tax in counties whose population is 100,000 or more but less than 400,000 (currently Washoe County).

Under existing law, in a county whose population is 400,000 or more, a portion of the proceeds of the tax that is equal to 60 cents for each \$500 of value must be deposited in the county school district's fund for capital projects. (NRS 375.070) Section ~~2~~ 3 of this bill makes that requirement applicable in a county whose population is 100,000 or more.

Section 4 of this bill imposes a tax on residential construction in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) in the amount of \$1,600 for each lot for a mobile home, residential dwelling unit and suite in an apartment house, and requires the

deposit of the proceeds of the tax in the county school district's fund for capital projects.

The provisions of sections ~~[1 and 2]~~ 1-4 of this bill will become effective on January 1, 2009, only if the voters of the affected counties approve of the effect of those provisions at the 2008 General Election.

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

Section 1. Chapter 374A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A tax is hereby imposed on all retailers in a county whose population is 100,000 or more but less than 400,000 at the rate of one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed, in the county.

2. The tax must be administered, collected and distributed in the manner set forth in chapter 374 of NRS.

3. The board of trustees of the county school district shall transfer the proceeds of the tax from the county school district fund to the county school district's fund for capital projects established pursuant to NRS 387.328, to be held and expended in the same manner as other money deposited in that fund.

~~[Section 1.]~~ Sec. 2. NRS 375.020 is hereby amended to read as follows:

375.020 1. A tax, at the rate of:

(a) In a county whose population is ~~[400,000]~~ 100,000 or more, \$1.25; and

(b) In a county whose population is less than ~~[400,000]~~ 100,000, 65 cents,

↪ for each \$500 of value or fraction thereof, is hereby imposed on each deed by which any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, if the consideration or value of the interest or property conveyed exceeds \$100.

2. The amount of tax must be computed on the basis of the value of the transferred real property as declared pursuant to NRS 375.060.

~~[Sec. 2.]~~ Sec. 3. NRS 375.070 is hereby amended to read as follows:

375.070 1. The county recorder shall transmit the proceeds of the tax imposed by NRS 375.020 at the end of each quarter in the following manner:

(a) An amount equal to that portion of the proceeds which is equivalent to 10 cents for each \$500 of value or fraction thereof must be transmitted to the State Controller who shall deposit that amount in the Account for Low-Income Housing created pursuant to NRS 319.500.

(b) In a county whose population is ~~[more than 400,000]~~ 100,000 or more, an amount equal to that portion of the proceeds which is equivalent to 60 cents for each \$500 of value or fraction thereof must be transmitted to the county treasurer for deposit in the county school district's fund for capital projects established pursuant to NRS 387.328, to be held and expended in the same manner as other money deposited in that fund.

(c) The remaining proceeds must be transmitted to the State Controller for deposit in the Local Government Tax Distribution Account created by NRS 360.660 for credit to the respective accounts of Carson City and each county.

2. In addition to any other authorized use of the proceeds it receives pursuant to subsection 1, a county or city may use the proceeds to pay expenses related to or incurred for the development of affordable housing for families whose income does not exceed 80 percent of the median income for families residing in the same county, as that percentage is defined by the United States Department of Housing and Urban Development. A county or city that uses the proceeds in that manner must give priority to the development of affordable housing for persons who are disabled or elderly.

3. The expenses authorized by subsection 2 include, but are not limited to:

- (a) The costs to acquire land and developmental rights;
- (b) Related predevelopment expenses;
- (c) The costs to develop the land, including the payment of related rebates;
- (d) Contributions toward down payments made for the purchase of affordable housing; and
- (e) The creation of related trust funds.

Sec. 4. Chapter 387 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A tax on residential construction is hereby imposed in a county whose population is 100,000 or more but less than 400,000, for the privilege of constructing apartment houses and residential dwelling units and developing lots for mobile homes in the county, in the amount of \$1,600 for each:

- (a) Lot for a mobile home;*
- (b) Residential dwelling unit; and*
- (c) Suite in an apartment house.*

2. The board of county commissioners of the county shall administer and collect the tax, and may retain not more than 1 percent of the proceeds of the tax for administrative costs.

3. Except as otherwise provided in subsection 2, the proceeds of the tax must be transmitted to the county treasurer for deposit in the county school district's fund for capital projects established pursuant to NRS 387.328, to be held and expended in the same manner as other money deposited in that fund.

Sec. 5. NRS 387.328 is hereby amended to read as follows:

387.328 1. The board of trustees of each school district shall establish a fund for capital projects for the purposes set forth in subsection 1 of NRS 387.335. The money in the fund for capital projects may be transferred to the debt service fund to pay the cost of the school district's debt service.

2. The board of trustees may accumulate money in the fund for capital projects for a period not to exceed 20 years.

3. That portion of the governmental services tax whose allocation to the school district pursuant to NRS 482.181 is based on the amount of the property tax levy attributable to its debt service must be deposited in the county treasury to the credit of the fund established under subsection 1 or the school district's debt service fund.

4. No money in the fund for capital projects at the end of the fiscal year may revert to the county school district fund, nor may the money be a surplus for any other purpose than those specified in subsection 1.

5. The proceeds of the taxes deposited in the fund for capital projects pursuant to NRS 244.3354, 268.0962 and 375.070 and sections 1 and 4 of this act may be pledged to the payment of the principal and interest on bonds or other obligations issued for one or more of the purposes set forth in NRS 387.335. The proceeds of such taxes so pledged may be treated as pledged revenues for the purposes of subsection 3 of NRS 350.020, and the board of trustees of a school district may issue bonds for those purposes in accordance with the provisions of chapter 350 of NRS.

Sec. 6. NRS 387.329 is hereby amended to read as follows:

387.329 As used in NRS 387.331 ~~and~~ and section 4 of this act:

1. "Apartment house" means a building arranged in several suites of connecting rooms, each suite designed for independent housekeeping, but with certain typical mechanical conveniences, such as air-conditioning, heat, light or elevator services shared in common by all families occupying the building.

2. "Lot for a mobile home" means any area or tract of land designated, designed or used for the occupancy of a mobile home. A "mobile home" is a vehicle without motive power designed or equipped for living purposes and to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

3. "Residential dwelling unit" means a building or a portion of a building planned, designed or used as a residence for one family only, living independently of other families or persons, and having its own bathroom and housekeeping facilities included in the unit.

Sec. 7. NRS 387.332 is hereby amended to read as follows:

387.332 The Nevada Tax Commission shall, every 4 years after it has approved the imposition of a tax on residential construction in a particular county or area of a county ~~and~~ pursuant to NRS 387.331, review the need for the tax under the circumstances existing at the time of the review. If the Commission finds that the tax is no longer needed, it shall so inform the board of county commissioners of that county, who shall repeal the tax as of the end of the current fiscal year.

~~[Sec. 3.]~~ *Sec. 8.* At the general election on November 4, 2008, in each county whose population is 100,000 or more but less than 400,000, a question must be placed on the general election ballot in substantially the following form:

Shall ~~the~~ it :

1. A sales and use tax be imposed in this county at the rate of one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed, in the county;

2. The tax on transfers of real property in this county be increased by 60 cents for each \$500 of the value of the transferred property ; and

3. A tax on residential construction be imposed in this county at the rate of \$1,600 for the privilege of constructing each lot for a mobile home, residential dwelling unit and suite in an apartment house in the county.

→ to fund capital projects for the county school district?

~~{Sec. 4}~~ Sec. 9. 1. This section and section ~~{3}~~ 8 of this act become effective on July 1, 2007.

2. Sections 1 ~~{and 2}~~ to 7, inclusive, of this act become effective on January 1, 2009, only if a majority of the voters voting on the question placed on the ballot pursuant to section ~~{3}~~ 8 of this act vote affirmatively on the question in all the counties in which the question was placed on the ballot.

Senator Townsend moved the adoption of the amendment.

Remarks by Senators Townsend, Mathews, Titus, Schneider and Raggio.

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

SENATOR TOWNSEND:

Thank you, Mr. President. This amendment purposes to raise enough funds for the construction of schools in Washoe County. The bill currently talks about real-property transfer tax at a certain rate. This amendment would add a 0.25 percent on the sales tax and includes impact fees of \$1,600 for each lot or residential dwelling. This amendment still requires a vote of the people for all three taxes.

I have handed out a revision to the original projections based on the leveling off of construction activity in northern Nevada. The 0.25 percent increase would allow us to bond approximately \$229 million in northern Nevada. The \$1,600 residential-construction tax would allow for approximately \$6.5 million, in 2009; that cannot be bonded; that can only be used for maintenance and repair. The 60-cent real-property transfer tax that is currently in the bill could bond approximately \$76 million for a total of \$343 million.

SENATOR MATHEWS:

Thank you, Mr. President. I cannot find, in the amendment, where it states to send it to the voters.

SENATOR TOWNSEND:

Thank you, Mr. President. To the Senator from Washoe County, we have already adopted that. It should be in the first reprint of the bill.

SENATOR TITUS:

I am wondering how these taxes were derived. I have a great deal of sympathy for Washoe County and its need to build schools, but I wonder why the taxes included in this bill are not room taxes or other kinds of broad-based taxes. Unfortunately, the taxes in this bill seem to hit right at two big problems the State is facing. One is the high cost of housing. We keep hearing how we need to look for affordable housing. This is one of the reasons it is hard for us to recruit nurses and teachers. They cannot afford housing; yet with this bill, we are going to raise the cost of a house. Second, the declining market shows there are many foreclosures today and fewer houses being sold. So I ask, is this really a stable source of revenue?

SENATOR TOWNSEND:

Thank you, Mr. President. All three of the taxes in front of you were proposed by Washoe County School District. The tax referred to, which is not in this, is a room tax. That was also proposed by the District. The reason the room tax is not in this bill is very simple. Washoe County's room tax amounts for marketing are approximately \$1 million. That has not gone up but has decreased substantially from prior years. This is all we have available to us to advertise. As a result, that tax was left out for reasons that are obvious. If we cannot market ourselves, if we start gouging into that limited resource, then we are going to have a bigger problem, and room tax will continue to decline. The other reason is that these are the ones that were not available to us previously and are available to all other counties. This is an attempt by Washoe County to become somewhat equal and to provide the revenues necessary to build these schools.

SENATOR SCHNEIDER:

Thank you, Mr. President. As I look at these numbers, \$1,600 for residential construction, real-estate transfer tax on houses and the 0.25 percent sales tax, everything that goes into a new home is sales taxed. The washer and dryer, the refrigerator, stove, range, ovens, all the lumber used, all the insulation, all the windows, etc., everything is sales taxed. It seems the real-estate industry is shouldering 100 percent of the burden. I am wondering if this should be spread around, so the burden is not just on the real-estate industry. The 0.25 percent sales tax affects some retail industries but not all industries. It is on the pair of slacks you buy at the store and every single item in a house is taxed when the builder purchases the merchandise.

SENATOR MATHEWS:

Has there been any discussion about the cities talking about 0.25 percent more in taxes for public safety? How does that fit on top of this 0.25 percent?

SENATOR TOWNSEND:

Thank you, Mr. President. Let me answer the first question from my colleague from Clark County Senatorial District 11. First, this is a proposal to be put on the ballot to be voted on by the public. If they think it is focused on one industry, then the voters can make that determination.

Second, one of the reasons we are building more schools is because we are building more homes. There is that much growth in Washoe County. Although Clark County is the fastest growing community in the Country, at about 6 to 7 percent; the Country grows at about 1 to 1.5 percent, even Washoe County grows at about 3 percent. We are still twice the national average. That was the thought process concerning that.

In answer to my colleague from Washoe County, if the community of Washoe or any of the two cities decide to put something else on the ballot, they will stand in and of themselves based on what the public wants to do. There could be another ballot question regarding police, fire or other construction issues. They have the right to do that and, of course, so do we. That is up to the public at that point to make that determination.

SENATOR RAGGIO:

Thank you, Mr. President. I am going to support this amendment as well as the original proposal, provided it is contingent upon approval of a majority of the voters in Washoe County. I would reemphasize the fact that these taxes as delineated in the amendment are tax sources that are available to all other school districts, most notably, in Clark County. In fact, this is less of the real-property transfer tax than is authorized for the Clark County School District.

The question may be asked, why not allow the school district to utilize the traditional method of funding capital improvement projects such as new schools. The problem is in Washoe County, we are up against the cap of \$3.54 per \$100. We do not have the capability, only in a very limited amount, to fund these with the traditional real-property tax. In Clark County, there is a wide gap between what the present tax rate is and what bonding capacity remains available for the Clark County School District.

During the interim, the Washoe County School District consulted with the Washoe legislative delegation. In fairness, I believe they have made their case for new capital construction. The problem is that we impacted that when we placed the 3-percent limit on property-tax bills on

primary residences and the 8-percent limitation on commercial property. The amount of money anticipated some years back to be coming from that source has been impacted by legislative action.

For these reasons and based upon the condition that the voters will have the opportunity to decide whether they want to authorize these taxes, I will support the measure and the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 146.

Bill read third time.

Remarks by Senator McGinness.

Roll call on Senate Bill No. 146:

YEAS—11.

NAYS—Beers, Care, Carlton, Cegavske, Heck, Horsford, Mathews, Schneider, Titus, Wiener—10.

Senate Bill No. 146 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 164.

Bill read third time.

Roll call on Senate Bill No. 164:

YEAS—21.

NAYS—None.

Senate Bill No. 164 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 198.

Bill read third time.

Roll call on Senate Bill No. 198:

YEAS—21.

NAYS—None.

Senate Bill No. 198 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 210.

Bill read third time.

Roll call on Senate Bill No. 210:

YEAS—21.

NAYS—None.

Senate Bill No. 210 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 231.

Bill read third time.

Remarks by Senators Heck and Carlton.

Roll call on Senate Bill No. 231:

YEAS—9.

NAYS—Beers, Care, Carlton, Cegavske, Coffin, Mathews, McGinness, Raggio, Titus, Washington, Wiener, Woodhouse—12.

Senate Bill No. 231 having failed to receive a constitutional majority, Mr. President declared it lost.

Senate Bill No. 237.

Bill read third time.

Roll call on Senate Bill No. 237:

YEAS—20.

NAYS—Carlton.

Senate Bill No. 237 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 244.

Bill read third time.

Roll call on Senate Bill No. 244:

YEAS—21.

NAYS—None.

Senate Bill No. 244 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 245.

Bill read third time.

Roll call on Senate Bill No. 245:

YEAS—15.

NAYS—Carlton, Coffin, Horsford, Mathews, Titus, Wiener—6.

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

Bill ordered transmitted to the Assembly.

Senate Bill No. 257.

Bill read third time.

Roll call on Senate Bill No. 257:

YEAS—9.

NAYS—Beers, Care, Carlton, Cegavske, Coffin, Hardy, Heck, Horsford, Mathews, Schneider, Titus, Wiener—12.

Senate Bill No. 257 having failed to receive a constitutional majority, Mr. President declared it lost.

Senate Bill No. 264.

Bill read third time.

Roll call on Senate Bill No. 264:

YEAS—21.

NAYS—None.

Senate Bill No. 264 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 275.

Bill read third time.

Roll call on Senate Bill No. 275:

Yeas—21.

Nays—None.

Senate Bill No. 275 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 277.

Bill read third time.

Roll call on Senate Bill No. 277:

YEAS—14.

NAYS—Carlton, Cegavske, Hardy, Heck, Raggio, Townsend, Washington—7.

Senate Bill No. 277 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 279.

Bill read third time.

The following amendment was proposed by Senator Lee:

Amendment No. 578.

"SUMMARY—Makes various changes concerning contractors and the
State Contractors' Board. (BDR 54-624)"

"AN ACT relating to contractors; revising certain duties and powers of the
State Contractors' Board; providing express authority for the Board to collect
and maintain data and to conduct investigations; revising the procedures for
applying for the issuance or renewal of a contractor's license; ~~revising the
term of a contractor's license from 1 year to 2 years in certain circumstances;
revising certain fees and assessments to reflect such change in the term of a
contractor's license;~~ authorizing the Board to take certain actions against an
unlicensed person who violates a provision governing contractors; providing
a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that chapter 624 of NRS, which governs contractors,
does not apply, under certain circumstances, to an owner of a complex

containing less than five condominiums, townhouses, apartments or cooperative units, the managing officer of the owner or an employee of the managing officer who performs certain maintenance and repairs to the property which are valued at less than \$500. (NRS 624.031) Section 1 of this bill expands this exemption to include any maintenance and repairs which are valued at less than \$1,000.

Existing law requires the State Contractors' Board to establish an Investigations Office that includes a Special Investigations Unit and a Compliance Investigations Unit. (NRS 624.112) Section 2 of this bill eliminates the requirement to include those two specific units within the Investigations Office.

Existing law authorizes the Board to require criminal investigators who are employed by the Board to locate and identify certain persons who violate a provision of chapter 624 of NRS or any regulations adopted by the Board. (NRS 624.115) Section 3 of this bill authorizes the Board also to require compliance investigators who are employed by the Board to locate and identify such persons.

Existing law authorizes the Board to undertake all functions and duties related to the administration of chapter 624 of NRS. (NRS 624.160) Section 4 of this bill provides express authority for the Board to collect and maintain data regarding investigations and complaints on contractors and to conduct investigations of contractors.

Existing law requires an applicant for the issuance or renewal of a contractor's license to submit a written application to the Board that includes, without limitation, the names and addresses of any owners, partners, officers, directors, members and managerial personnel of the applicant. (NRS 624.250) Section 5 of this bill revises this requirement for applicants that are corporations or limited-liability companies. Section 5 also requires the Board to require an applicant to pay the license fee and any applicable assessments before the Board issues a license to the applicant.

Existing law requires an applicant for the issuance or renewal of a contractor's license to submit to the Board proof of industrial insurance and insurance for occupational diseases, proof of self-insurance or a signed affidavit affirming that the applicant is not subject to the statutes governing industrial insurance and occupational insurance because of certain specified circumstances. (NRS 624.256) Section 6 of this bill provides that failure of such an applicant or licensee to file or maintain such insurance constitutes cause for the Board to take certain administrative actions against the person unless the person provides to the Board the affidavit discussed above.

Existing law requires an applicant for a contractor's license or a licensee to show such a degree of financial responsibility as the Board deems necessary for the safety and protection of the public. (NRS 624.260) Existing law also requires that the financial responsibility be determined by using certain standards and criteria set forth in statute. (NRS 624.263) Section 7 of this bill expands those standards and criteria and authorizes, rather than requires,

these standards and criteria to be used in determining the financial responsibility of an applicant or licensee.

~~[Section 9 of this bill revises the existing fee for a contractor's license from \$450 annually to \$900 biennially. (NRS 624.283)~~

~~Section 10 of this bill revises the existing term of a contractor's license from 1 year to 2 years and authorizes the Board to establish a system of staggered biennial renewals. Section 20 of this bill provides that the provisions of section 10 do not apply to an existing contractor's license until the first renewal date for the license that occurs after the effective date of this bill.]~~

Existing law authorizes the Board or its designee to issue administrative citations and to take action against an applicant for a contractor's license or a licensee who commits an act which constitutes cause for disciplinary action. (NRS 624.341) Section 12 of this bill authorizes the Board or its designee to issue such citations and to take such action against any person who violates a provision of chapter 624 of NRS or any regulations adopted by the Board. Section 12 also specifies that any administrative fine ordered in the citation must not exceed \$50,000 under certain circumstances. Further, section 12 provides that it is a misdemeanor for an unlicensed person to fail to comply with such a citation or order issued by the Board pursuant to NRS 624.341. Sections 13, 14 and 15 of this bill similarly amend existing law to reflect the expanded scope of the administrative citations and actions. (NRS 624.345, 624.351, 624.361)

~~[Section 16 of this bill revises the existing assessments which are required to be paid by each residential contractor on an annual basis by doubling the amounts of the assessments and requiring such assessments to be paid per biennium. (NRS 624.470)]~~

Existing law authorizes the Board to impose an administrative fine upon an unlicensed person who engages in business as a contractor or submits a bid on a job in this State. (NRS 624.710) Section 17 of this bill further authorizes the Board to impose an administrative fine on a person who violates certain provisions governing advertising concerning contractors or certain provisions governing the ability of licensees to participate in joint ventures or other combinations. (NRS 624.720, 624.740)

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

Section 1. NRS 624.031 is hereby amended to read as follows:

624.031 The provisions of this chapter do not apply to:

1. Work performed exclusively by an authorized representative of the United States Government, the State of Nevada, or an incorporated city, county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this State.

2. An officer of a court when acting within the scope of his office.

3. Work performed exclusively by a public utility operating pursuant to the regulations of the Public Utilities Commission of Nevada on construction, maintenance and development work incidental to its business.

4. An owner of property who is building or improving a residential structure on the property for his own occupancy and not intended for sale or lease. The sale or lease, or the offering for sale or lease, of the newly built structure within 1 year after its completion creates a rebuttable presumption for the purposes of this section that the building of the structure was performed with the intent to sell or lease that structure. An owner of property who requests an exemption pursuant to this subsection must apply to the Board for the exemption. The Board shall adopt regulations setting forth the requirements for granting the exemption.

5. ~~{An owner of a complex containing not more than four condominiums, townhouses, apartments or cooperative units, the managing officer of the owner or an employee of the managing officer, who performs}~~ Any work to repair or maintain ~~{that}~~ property the value of which is less than ~~[\$500,]~~ \$1,000, including labor and materials, unless:

- (a) A building permit is required to perform the work;
- (b) The work is of a type performed by a plumbing, electrical, refrigeration, heating or air-conditioning contractor;
- (c) The work is of a type performed by a contractor licensed in a classification prescribed by the Board that significantly affects the health, safety and welfare of members of the general public;
- (d) The work is performed as a part of a larger project:
 - (1) The value of which is \$500 or more; or
 - (2) For which contracts of less than \$500 have been awarded to evade the provisions of this chapter; or
- (e) The work is performed by a person who is licensed pursuant to this chapter or by an employee of that person.

6. The sale or installation of any finished product, material or article of merchandise which is not fabricated into and does not become a permanent fixed part of the structure.

7. The construction, alteration, improvement or repair of personal property.

8. The construction, alteration, improvement or repair financed in whole or in part by the Federal Government and conducted within the limits and boundaries of a site or reservation, the title of which rests in the Federal Government.

9. An owner of property, the primary use of which is as an agricultural or farming enterprise, building or improving a structure on the property for his use or occupancy and not intended for sale or lease.

Sec. 2. NRS 624.112 is hereby amended to read as follows:

624.112 1. The Board shall:

(a) Establish an Investigations Office to enforce the provisions of this chapter. The Investigations Office must ~~include a Special Investigations~~

~~Unit consisting]~~ consist of criminal investigators and ~~{a Compliance Investigations Unit consisting of}~~ compliance investigators.

(b) Adopt regulations setting forth the qualifications required for investigators employed to carry out this section.

2. As used in this section, "criminal investigator" means a person authorized to perform the duties set forth in subsection 2 of NRS 624.115.

Sec. 3. NRS 624.115 is hereby amended to read as follows:

624.115 1. The Board may employ attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of its duties.

2. The Board may require criminal investigators who are employed by the Board pursuant to NRS 624.112 to:

(a) Conduct a background investigation of:

- (1) A licensee or an applicant for a contractor's license; or
- (2) An applicant for employment with the Board;

(b) Locate and identify persons who:

(1) Engage in the business or act in the capacity of a contractor within this State in violation of the provisions of this chapter;

(2) Submit bids on jobs situated within this State in violation of the provisions of this chapter; or

(3) Otherwise violate the provisions of this chapter or the regulations adopted pursuant to this chapter;

(c) Investigate any alleged occurrence of constructional fraud; and

(d) Issue a misdemeanor citation prepared manually or electronically pursuant to NRS 171.1773 to a person who violates a provision of this chapter that is punishable as a misdemeanor. A criminal investigator may request any constable, sheriff or other peace officer to assist him in the issuance of such a citation.

3. *The Board may require compliance investigators who are employed by the Board pursuant to NRS 624.112 to locate and identify persons who:*

(a) Engage in the business or act in the capacity of a contractor within this State in violation of the provisions of this chapter;

(b) Submit bids on jobs situated within this State in violation of the provisions of this chapter; or

(c) Otherwise violate the provisions of this chapter or the regulations adopted pursuant thereto.

Sec. 4. NRS 624.160 is hereby amended to read as follows:

624.160 1. The Board is vested with all of the functions and duties relating to the administration of this chapter.

2. The Board shall:

(a) Carry out a program of education for customers of contractors.

(b) Maintain and make known a telephone number for the public to obtain information about self-protection from fraud in construction and other information concerning contractors and contracting.

(c) Collect and maintain records, reports and compilations of statistical data concerning investigations and complaints.

3. The Board may provide advisory opinions and take other actions that are necessary for the effective administration of this chapter and the regulations of the Board.

4. The Board may, on its own motion, and shall, upon receipt of a written complaint or upon receipt of information from a governmental agency, investigate the actions of any person acting in the capacity of a contractor, with or without a license.

Sec. 5. NRS 624.250 is hereby amended to read as follows:

624.250 1. To obtain or renew a license, an applicant must submit to the Board an application in writing containing:

(a) The statement that the applicant desires the issuance of a license under the terms of this chapter.

(b) The street address or other physical location of the applicant's place of business.

(c) The name of a person physically located in this State for service of process on the applicant.

(d) The street address or other physical location in this State and, if different, the mailing address, for service of process on the applicant.

(e) ~~[(The)]~~ *Except as otherwise provided in paragraphs (f) or (g), the names and physical and mailing addresses of any owners, partners, officers, directors, members and managerial personnel of the applicant.*

(f) If the applicant is a corporation, the names and physical and mailing addresses of the president, secretary, treasurer, any officers responsible for contracting activities in this State, any officers responsible for renewing the license of the applicant, any persons used by the applicant to qualify pursuant to NRS 624.260 and any other persons required by the Board.

(g) If the applicant is a limited-liability company, the names and physical and mailing addresses of any managers or members with managing authority, any managers or members responsible for contracting activities in this State, any managers or members responsible for renewing the license of the applicant, any persons used by the applicant to qualify pursuant to NRS 624.260 and any other persons required by the Board.

(h) Any information requested by the Board to ascertain the background, financial responsibility, experience, knowledge and qualifications of the applicant.

~~[(g)]~~ *(i) All information required to complete the application.*

2. The application must be:

(a) Made on a form prescribed by the Board in accordance with the rules and regulations adopted by the Board.

(b) Accompanied by the *application* fee fixed by this chapter.

3. The Board shall include on an application form for the issuance or renewal of a license, a method for allowing an applicant to make a monetary contribution to the Construction Education Account created pursuant to

NRS 624.580. The application form must state in a clear and conspicuous manner that a contribution to the Construction Education Account is voluntary and is in addition to any fees required for licensure. If the Board receives a contribution from an applicant, the Board shall deposit the contribution with the State Treasurer for credit to the Construction Education Account.

4. *Before issuing a license to any applicant, the Board shall require the applicant to pay the license fee fixed by this chapter and, if applicable, any assessment required pursuant to NRS 624.470.*

Sec. 6. NRS 624.256 is hereby amended to read as follows:

624.256 1. Before granting an original or renewal of a contractor's license to any applicant, the Board shall require that the applicant submit to the Board:

(a) Proof of industrial insurance and insurance for occupational diseases which covers his employees;

(b) A copy of his certificate of qualification as a self-insured employer which was issued by the Commissioner of Insurance;

(c) If the applicant is a member of an association of self-insured public or private employers, a copy of the certificate issued to the association by the Commissioner of Insurance; or

(d) An affidavit signed by the applicant affirming that he is not subject to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS because:

(1) He has no employees;

(2) He is not or does not intend to be a subcontractor for a principal contractor; and

(3) He has not or does not intend to submit a bid on a job for a principal contractor or subcontractor.

2. The Board shall notify the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420 whenever the Board learns that an applicant or holder of a contractor's license has engaged in business as or acted in the capacity of a contractor within this State without having obtained industrial insurance or insurance for occupational diseases in violation of the provisions of chapters 616A to 617, inclusive, of NRS.

3. *Failure by an applicant or holder of a contractor's license to file or maintain in full force the required industrial insurance and insurance for occupational diseases constitutes cause for the Board to deny, revoke, suspend, refuse to renew or otherwise discipline the person, unless the person has complied with the provisions set forth in paragraph (d) of subsection 1.*

Sec. 7. NRS 624.263 is hereby amended to read as follows:

624.263 1. The financial responsibility of a licensee or an applicant for a contractor's license must be established independently of and without reliance on any assets or guarantees of any owners or managing officers of the licensee or applicant, but the financial responsibility of any owners or

managing officers of the licensee or applicant may be inquired into and considered as a criterion in determining the financial responsibility of the licensee or applicant.

2. The financial responsibility of an applicant for a contractor's license or of a licensed contractor ~~must~~ *may* be determined by using the following standards and criteria in connection with each applicant or contractor and each associate or partner thereof:

- (a) ~~Net~~ *Amount of net worth.*
- (b) Amount of liquid assets.
- (c) *Amount of current assets.*
- (d) *Amount of current liabilities.*
- (e) *Amount of working capital.*
- (f) *Ratio of current assets to current liabilities.*
- (g) *Fulfillment of bonding requirements pursuant to NRS 624.270.*
- (h) Prior payment and credit records.
- ~~(d)~~ (i) Previous business experience.
- ~~(e)~~ (j) Prior and pending lawsuits.
- ~~(f)~~ (k) Prior and pending liens.
- ~~(g)~~ (l) Adverse judgments.
- ~~(h)~~ (m) Conviction of a felony or crime involving moral turpitude.
- ~~(i)~~ (n) Prior suspension or revocation of a contractor's license in Nevada or elsewhere.
- ~~(j)~~ (o) An adjudication of bankruptcy or any other proceeding under the federal bankruptcy laws, including:
 - (1) A composition, arrangement or reorganization proceeding;
 - (2) The appointment of a receiver of the property of the applicant or contractor or any officer, director, associate or partner thereof under the laws of this State or the United States; or
 - (3) The making of an assignment for the benefit of creditors.
- ~~(k)~~ (p) Form of business organization, corporate or otherwise.
- ~~(l)~~ (q) Information obtained from confidential financial references and credit reports.
- ~~(m)~~ (r) Reputation for honesty and integrity of the applicant or contractor or any officer, director, associate or partner thereof.

3. A licensed contractor shall, as soon as it is reasonably practicable, notify the Board in writing upon the filing of a petition or application relating to the contractor that initiates any proceeding, appointment or assignment set forth in paragraph ~~(i)~~ (o) of subsection 2. The written notice must be accompanied by:

- (a) A copy of the petition or application filed with the court; and
- (b) A copy of any order of the court which is relevant to the financial responsibility of the contractor, including any order appointing a trustee, receiver or assignee.

4. Before issuing a license to an applicant who will engage in residential construction or renewing the license of a contractor who engages in

residential construction, the Board may require the applicant or licensee to establish his financial responsibility by submitting to the Board:

(a) A financial statement that is:

(1) Prepared by a certified public accountant; or

(2) Submitted on a form or in a format prescribed by the Board together with an affidavit which verifies the accuracy of the financial statement; and

(b) A statement setting forth the number of building permits issued to and construction projects completed by the licensee during the immediately preceding year and any other information required by the Board. The statement submitted pursuant to this paragraph must be provided on a form approved by the Board.

5. In addition to the requirements set forth in subsection 4, the Board may require a licensee to establish his financial responsibility at any time.

6. An applicant for an initial contractor's license or a licensee applying for the renewal of a contractor's license has the burden of demonstrating his financial responsibility to the Board, if the Board requests him to do so.

Sec. 8. (Deleted by amendment.)

Sec. 9. ~~[NRS 624.280 is hereby amended to read as follows:~~

~~624.280 The Board may adopt regulations fixing the fee for an application, the fee for an examination and the [annual] fee for a license to be paid by applicants and licensees. Except as otherwise provided in NRS 624.281, the fee for:~~

~~1. An application must not exceed \$550.~~

~~2. A license must not exceed [\$450 annually.] \$900 biennially.~~

~~3. An examination must not exceed \$300.] (Deleted by amendment.)~~

Sec. 10. ~~[NRS 624.283 is hereby amended to read as follows:~~

~~624.283 1. Each license issued under the provisions of this chapter expires [1 year] 2 years after the date on which it is issued, except that the Board may by regulation prescribe shorter or longer periods and prorated fees to establish a system of staggered *biennial* renewals. Any license which is not renewed on or before the date for renewal is automatically suspended.~~

~~2. A license may be renewed by submitting to the Board:~~

~~(a) An application for renewal;~~

~~(b) The fee for renewal fixed by the Board;~~

~~(c) Any assessment required pursuant to NRS 624.470 if the holder of the license is a residential contractor as defined in NRS 624.450; and~~

~~(d) All information required to complete the renewal.~~

~~3. The Board may require a licensee to demonstrate his financial responsibility at any time through the submission of:~~

~~(a) A financial statement that is:~~

~~(1) Prepared by an independent certified public accountant; or~~

~~(2) Submitted on a form or in a format prescribed by the Board together with an affidavit which verifies the accuracy of the financial statement; and~~

~~(b) If the licensee performs residential construction, such additional documentation as the Board deems appropriate.~~

~~4. If a license is automatically suspended pursuant to subsection 1, the licensee may have his license reinstated upon filing an application for renewal within 6 months after the date of suspension and paying, in addition to the fee for renewal, a fee for reinstatement fixed by the Board, if he is otherwise in good standing and there are no complaints pending against him. If he is otherwise not in good standing or there is a complaint pending, the Board shall require him to provide a current financial statement prepared by an independent certified public accountant or establish other conditions for reinstatement. An application for renewal must be accompanied by all information required to complete the renewal. A license which is not reinstated within 6 months after it is automatically suspended may be cancelled by the Board, and a new license may be issued only upon application for an original contractor's license.] (Deleted by amendment.)~~

Sec. 11. (Deleted by amendment.)

Sec. 12. NRS 624.341 is hereby amended to read as follows:

624.341 1. If the Board or its designee, based upon a preponderance of the evidence, has reason to believe that a ~~[licensee or applicant for a contractor's license]~~ person has committed an act which constitutes a ~~[cause for disciplinary action pursuant to NRS 624.300,]~~ violation of this chapter or the regulations of the Board, the Board or its designee, as appropriate, may issue or authorize the issuance of a written administrative citation to the ~~[licensee or applicant.]~~ person. A citation issued pursuant to this section may include, without limitation:

(a) An order to take action to correct a condition resulting from an act that constitutes a ~~[cause for disciplinary action, at the licensee's or applicant's cost,]~~ violation of this chapter or the regulations of the Board, at the person's cost;

(b) An order to pay an administrative fine ~~[;]~~ not to exceed \$50,000, except as otherwise provided in subsection 1 of NRS 624.300; and

(c) An order to reimburse the Board for the amount of the expenses incurred to investigate the complaint.

2. If a written citation issued pursuant to subsection 1 includes an order to take action to correct a condition resulting from an act that constitutes a ~~[cause for disciplinary action,]~~ violation of this chapter or the regulations of the Board, the citation must state the time permitted for compliance, which must be not less than 15 business days after the date the ~~[licensee or applicant]~~ person receives the citation, and specifically describe the action required to be taken.

3. The sanctions authorized by subsection 1 are separate from, and in addition to, any other remedy, civil or criminal, authorized by this chapter.

4. The failure of an unlicensed person to comply with a citation or order after it is final is a misdemeanor. If an unlicensed person does not pay an administrative fine imposed pursuant to this section within 60 days after the order of the Board becomes final, the order may be executed upon in the same manner as a judgment issued by a court.

Sec. 13. NRS 624.345 is hereby amended to read as follows:

624.345 1. A ~~licensee or applicant for a contractor's license~~ person who is issued a written citation pursuant to NRS 624.341 may contest the citation within 15 business days after the date on which the citation is served on the ~~licensee or applicant~~ person.

2. A ~~licensee or applicant for a contractor's license~~ person may contest, without limitation:

(a) The facts forming the basis for the determination that the ~~licensee or applicant~~ person has committed an act which constitutes a ~~cause for disciplinary action~~; violation of this chapter or the regulations of the Board;

(b) The time allowed to take any corrective action ordered;

(c) The amount of any administrative fine ordered;

(d) The amount of any order to reimburse the Board for the expenses incurred to investigate the ~~licensee or applicant~~ person; and

(e) Whether any corrective action described in the citation is reasonable.

3. If a ~~licensee or applicant for a contractor's license~~ person does not contest a citation issued pursuant to NRS 624.341 within 15 business days after the date on which the citation is served on the ~~licensee or applicant~~ person, or on or before such later date as specified by the Board pursuant to subsection 4, the citation shall be deemed a final order of the Board and not subject to review by any court or agency.

4. The Board may, for good cause shown, extend the time to contest a citation issued pursuant to NRS 624.341.

5. For the purposes of this section, a citation shall be deemed to have been served on a ~~licensee or an applicant~~ person on:

(a) The date on which the citation is personally delivered to the ~~licensee or applicant~~ person; or

(b) If the citation is mailed, the date on which the citation is mailed by certified mail to the last known business or residential address of the ~~licensee or applicant~~ person.

Sec. 14. NRS 624.351 is hereby amended to read as follows:

624.351 If a ~~licensee or applicant for a contractor's license~~ person contests a citation issued pursuant to NRS 624.341 or order to correct a violation of the provisions of this chapter within 15 business days after he receives the citation or order, or on or before such later date as specified by the Board pursuant to subsection 4 of NRS 624.345, the Board shall hold a hearing pursuant to NRS 624.291.

Sec. 15. NRS 624.361 is hereby amended to read as follows:

624.361 The Board shall adopt regulations concerning the:

1. Form of a written citation issued pursuant to NRS 624.341;

2. Time required for a ~~licensee or applicant for a license~~ person to correct a condition resulting from an act that constitutes a ~~cause for disciplinary action~~ violation of this chapter or the regulations of the Board if he is so ordered pursuant to NRS 624.341; and

3. Imposition of an administrative fine pursuant to the provisions of this chapter. The Board ~~[must]~~ *shall* consider:

- (a) The gravity of the violation;
- (b) The good faith of the ~~[licensee;]~~ *person*; and
- (c) Any history of previous violations of the provisions of this chapter by the ~~[licensee.]~~ *person*.

Sec. 16. ~~[NRS 624.470 is hereby amended to read as follows:
624.470 1. Except as otherwise provided in subsection 3, in addition to the [annual] fee for a license required pursuant to NRS 624.280, a residential contractor shall pay to the Board an [annual] assessment not to exceed the following amount, if the monetary limit on his license is:
Not more than \$1,000,000 [\$100] \$200 per biennium
More than \$1,000,000 but limited [250] 500 per biennium
Unlimited [500] 1,000 per biennium~~

~~2. The Board shall administer and account separately for the money received from the [annual] assessments collected pursuant to subsection 1. The Board may refer to the money in the account as the "Recovery Fund."~~

~~3. The Board shall reduce the amount of the assessments collected pursuant to subsection 1 when the balance in the account reaches 150 percent of the largest balance in the account during the previous fiscal year.~~

~~4. Except as otherwise provided in NRS 624.540, the money in the account must be used to pay claims made by owners who are damaged by the failure of a residential contractor to perform qualified services adequately, as provided in NRS 624.400 to 624.560, inclusive.] (Deleted by amendment.)~~

Sec. 17. NRS 624.710 is hereby amended to read as follows:

624.710 1. If any person violates the provisions of subsection 1 of NRS 624.700, *subsections 1, 2 or 3 of NRS 624.720 or NRS 624.740*, the Board may impose for each violation an administrative fine in an amount that is not less than \$1,000 and not more than \$50,000.

2. The Board shall, by regulation, establish standards for use by the Board in determining the amount of an administrative fine imposed pursuant to this section. The standards must include, without limitation, provisions requiring the Board to consider:

- (a) The gravity of the violation;
- (b) The good faith of the person; and
- (c) Any history of previous violations of the provisions of this chapter *or the regulations of the Board* committed by the person.

3. An administrative fine imposed pursuant to this section is in addition to any other penalty imposed pursuant to this chapter.

4. If the administrative fine and any interest imposed pursuant to NRS 624.300 is not paid when due, the fine and interest, if any, must be recovered in a civil action brought by the Attorney General on behalf of the Board.

5. All administrative fines and interest collected pursuant to this section must be deposited with the State Treasurer for credit to the Construction Education Account created pursuant to NRS 624.580.

Sec. 18. ~~[NRS 338.1389 is hereby amended to read as follows:~~

~~338.1389 1. Except as otherwise provided in subsection 10 and NRS 338.1385, 338.1386 and 338.13864, a public body or its authorized representative shall award a contract for a public work for which the estimated cost exceeds \$250,000 to the contractor who submits the best bid.~~

~~2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:~~

~~(a) Submitted by a responsive and responsible contractor who:~~

~~(1) Has been determined by the public body to be a qualified bidder pursuant to NRS 338.1379 or 338.1382; and~~

~~(2) At the time he submits his bid, has a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and~~

~~(b) Not more than 5 percent higher than the bid submitted by the lowest responsive and responsible bidder who does not have, at the time he submits his bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him by the State Contractors' Board pursuant to subsection 3 or 4;~~

~~shall be deemed to be the best bid for the purposes of this section.~~

~~3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:~~

~~(a) Paid directly, on his own behalf:~~

~~(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;~~

~~(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~(3) Any combination of such sales and use taxes and governmental services tax; or~~

~~(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:~~

~~(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and~~

~~(2) Certificate of eligibility to receive a preference in bidding on public works.~~

~~4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:~~

~~(a) Paid directly, on his own behalf:~~

~~(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;~~

~~(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~(3) Any combination of such sales and use taxes and governmental services tax; or~~

~~(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:~~

~~(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and~~

~~(2) Certificate of eligibility to receive a preference in bidding on public works.~~

~~5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:~~

~~(a) Sales and use taxes and governmental services taxes that were paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and~~

~~(b) Sales and use taxes that were paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.~~

~~6.—A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the [annual] renewal of his contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain his eligibility to hold such a certificate.~~

~~7.—A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless he reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.~~

~~8.—If a contractor holds more than one contractor's license, he must submit a separate application for each license pursuant to which he wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.~~

~~9.—If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information.~~

~~10.—If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.~~

~~11.—If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may be deemed the best bid only if both or all of the joint venturers separately meet the requirements of subsection 2.~~

~~12.—The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.~~

~~13.—A person or entity who believes that a contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the public body to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:~~

~~(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and~~

~~(b) Be filed with the public body not later than 3 business days after the opening of the bids by the public body or its authorized representative.~~

~~14. If a public body receives a written objection pursuant to subsection 13, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection and the public body or its authorized representative may proceed immediately to award the contract. If the public body determines that the objection is accompanied by the required proof or substantiating evidence, the public body shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the public body or its authorized representative may proceed to award the contract accordingly.] (Deleted by amendment.)~~

Sec. 19. ~~[NRS 338.147 is hereby amended to read as follows:~~

~~338.147 1. Except as otherwise provided in subsection 10 and NRS 338.143, 338.1442 and 338.1446, a local government or its authorized representative shall award a contract for a public work for which the estimated cost exceeds \$250,000 to the contractor who submits the best bid:~~

~~2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:~~

~~(a) Submitted by a contractor who:~~

~~(1) Has been found to be a responsible and responsive contractor by the local government or its authorized representative; and~~

~~(2) At the time he submits his bid, has a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and~~

~~(b) Not more than 5 percent higher than the bid submitted by the lowest responsive and responsible bidder who does not have, at the time he submits the bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him by the State Contractors' Board pursuant to subsection 3 or 4;~~

~~shall be deemed to be the best bid for the purposes of this section.~~

~~3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:~~

~~(a) Paid directly, on his own behalf:~~

~~(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately~~

~~preceding the submission of the affidavit from the certified public accountant;~~

~~(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~(3) Any combination of such sales and use taxes and governmental services tax; or~~

~~(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:~~

~~(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and~~

~~(2) Certificate of eligibility to receive a preference in bidding on public works.~~

~~4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:~~

~~(a) Paid directly, on his own behalf:~~

~~(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;~~

~~(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~(3) Any combination of such sales and use taxes and governmental services tax; or~~

~~(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:~~

~~(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and~~

~~(2) Certificate of eligibility to receive a preference in bidding on public works.~~

~~5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:~~

~~(a) Sales and use taxes and governmental services taxes paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and~~

~~(b) Sales and use taxes paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.~~

~~6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the [annual] renewal of his contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain his eligibility to hold such a certificate.~~

~~7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless he reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.~~

~~8. If a contractor holds more than one contractor's license, he must submit a separate application for each license pursuant to which he wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.~~

~~9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information.~~

~~10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.~~

~~11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may be deemed a best bid only if both or all of the joint venturers separately meet the requirements of subsection 2.~~

~~12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.~~

~~13. A person or entity who believes that a contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the local government to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:~~

~~(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and~~

~~(b) Be filed with the local government not later than 3 business days after the opening of the bids by the local government or its authorized representative.~~

~~14. If a local government receives a written objection pursuant to subsection 13, the local government shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the local government determines that the objection is not accompanied by the required proof or substantiating evidence, the local government shall dismiss the objection and the local government or its authorized representative may proceed immediately to award the contract. If the local government determines that the objection is accompanied by the required proof or substantiating evidence, the local government shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the local government or its authorized representative may proceed to award the contract accordingly.] (Deleted by amendment.)~~

~~Sec. 20. [The amendatory provisions of section 10 of this act do not apply to a license issued pursuant to chapter 624 of NRS before the effective date of this act until the first renewal date for the license after the effective date of this act.] (Deleted by amendment.)~~

Sec. 21. This act becomes effective upon passage and approval.

Senator Lee moved the adoption of the amendment.

Remarks by Senators Lee and Townsend.

Motion failed.

Roll call on Senate Bill No. 279:

YEAS—21.

NAYS—None.

Senate Bill No. 279 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

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

Motion carried.

Senate in recess at 2:31 p.m.

SENATE IN SESSION

At 2:36 p.m.

President Krolicki presiding.

Quorum present.

Senate Bill No. 291.

Bill read third time.

Roll call on Senate Bill No. 291:

YEAS—21.

NAYS—None.

Senate Bill No. 291 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 298.

Bill read third time.

Remarks by Senators Coffin, Amodei, Mathews and Beers.

Roll call on Senate Bill No. 298:

YEAS—20.

NAYS—None.

NOT VOTING—Mathews.

Senate Bill No. 298 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 310.

Bill read third time.

Roll call on Senate Bill No. 310:

YEAS—21.

NAYS—None.

Senate Bill No. 310 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 313.

Bill read third time.

Roll call on Senate Bill No. 313:

YEAS—17.

NAYS—Beers, Cegavske, Raggio, Townsend—4.

Senate Bill No. 313 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 329.

Bill read third time.

Roll call on Senate Bill No. 329:

YEAS—19.

NAYS—Carlton, Coffin—2.

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

Bill ordered transmitted to the Assembly.

Senate Bill No. 352.

Bill read third time.

Roll call on Senate Bill No. 352:

YEAS—21.

NAYS—None.

Senate Bill No. 352 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 356.

Bill read third time.

Roll call on Senate Bill No. 356:

YEAS—21.

NAYS—None.

Senate Bill No. 356 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 357.

Bill read third time.

Roll call on Senate Bill No. 357:

YEAS—21.

NAYS—None.

Senate Bill No. 357 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 359.

Bill read third time.

Roll call on Senate Bill No. 359:

YEAS—18.

NAYS—Care, Titus, Wiener—3.

Senate Bill No. 359 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 367.

Bill read third time.

Roll call on Senate Bill No. 367:

YEAS—21.

NAYS—None.

Senate Bill No. 367 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 375.

Bill read third time.

Roll call on Senate Bill No. 375:

YEAS—15.

NAYS—Care, Carlton, Schneider, Titus, Wiener, Woodhouse—6.

Senate Bill No. 375 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 399.

Bill read third time.

Roll call on Senate Bill No. 399:

YEAS—21.

NAYS—None.

Senate Bill No. 399 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 403.

Bill read third time.

Roll call on Senate Bill No. 403:

YEAS—21.

NAYS—None.

Senate Bill No. 403 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 425.

Bill read third time.

Roll call on Senate Bill No. 425:

YEAS—21.

NAYS—None.

Senate Bill No. 425 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 430.

Bill read third time.

Remarks by Senators Amodei and Schneider.

Roll call on Senate Bill No. 430:

YEAS—21.

NAYS—None.

Senate Bill No. 430 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 454.

Bill read third time.

Roll call on Senate Bill No. 454:

YEAS—21.

NAYS—None.

Senate Bill No. 454 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 477.

Bill read third time.

Roll call on Senate Bill No. 477:

YEAS—21.

NAYS—None.

Senate Bill No. 477 having received a two-thirds majority, Mr. President
declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 491.

Bill read third time.

Remarks by Senators Care, Coffin, Cegavske and Townsend.

Roll call on Senate Bill No. 491:

YEAS—20.

NAYS—Coffin.

Senate Bill No. 491 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 503.

Bill read third time.

Roll call on Senate Bill No. 503:

YEAS—21.

NAYS—None.

Senate Bill No. 503 having received a two-thirds majority, Mr. President
declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 529.

Bill read third time.

Roll call on Senate Bill No. 529:

YEAS—21.

NAYS—None.

Senate Bill No. 529 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 533.

Bill read third time.

Roll call on Senate Bill No. 533:

YEAS—21.

NAYS—None.

Senate Bill No. 533 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 535.

Bill read third time.

Roll call on Senate Bill No. 535:

YEAS—21.

NAYS—None.

Senate Bill No. 535 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 536.

Bill read third time.

Roll call on Senate Bill No. 536:

YEAS—18.

NAYS—Horsford, Titus, Wiener—3.

Senate Bill No. 536 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Joint Resolution No. 10.

Resolution read third time.

Roll call on Senate Joint Resolution No. 10:

YEAS—21.

NAYS—None.

Senate Joint Resolution No. 10 having received a constitutional majority,
Mr. President declared it passed, as amended.

Resolution ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Assembly Bills Nos. 18, 27, 30, 35, 75, 100, 152, 294, 482 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Raggio.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 274.

Bill read third time.

Remarks by Senator Amodei.

Senator Amodei moved that Senate Bill No. 274 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Washington moved that Senate Bill No. 312 be placed on the Secretary's Desk upon return from reprint.

Remarks by Senator Washington.

Motion carried.

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 23, 2007

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 381.

GARY GHIGGERI

Fiscal Analysis Division

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 229, 265, 280, 412, 436, 437, 476, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RANDOLPH J. TOWNSEND, *Chair*

Mr. President:

Your Committee on Finance, to which was referred Senate Bill No. 337, 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 Finance, to which was rereferred Senate Bill No. 180, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM J. RAGGIO, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 123, 199, 201, 203, 222, 234, 269, 307, 325, 499, 509, 511, 516, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WARREN B. HARDY II, *Chair*

Mr. President:

Your Committee on Human Resources and Education, to which were referred Senate Bills Nos. 112, 238, 305, 377, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAURICE E. WASHINGTON, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 292, 299, 317, 354, 483, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK E. AMODEI, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which were referred Senate Bills Nos. 230, 401, 489, 495, 549; Senate Joint Resolution No. 3, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BARBARA K. CEGAVSKE, *Chair*

Mr. President:

Your Committee on Natural Resources, to which were referred Senate Bills Nos. 366, 376, 422, 484, 487, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEAN A. RHOADS, *Chair*

Mr. President:

Your Committee on Taxation, to which were referred Senate Bills Nos. 172, 321, 324, 374, 448, 501, 502, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MIKE MCGINNESS, *Chair*

Mr. President:

Your Committee on Transportation and Homeland Security, to which were referred Senate Bills Nos. 41, 393, 417, 452, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DENNIS NOLAN, *Chair*

SECOND READING AND AMENDMENT

Senate Bill No. 45.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 267.

"SUMMARY—~~Provides for the imposition of an administrative assessment on a person convicted of driving while under the influence of intoxicating liquor or a controlled substance.~~ Revises provisions governing the disposition of administrative assessments imposed for certain offenses. (BDR 14-672)"

"AN ACT relating to administrative assessments; ~~imposing an administrative assessment on a person convicted of driving while under the influence of intoxicating liquor or a controlled substance;~~ revising provisions governing the disposition of administrative assessments imposed for certain offenses; creating the Fund for Programs Relating to Impaired Driving into which a portion of the money collected from ~~such~~ certain administrative assessments must be deposited; providing for grants to be awarded from the Fund to governmental entities and nonprofit agencies which provide programs to address issues relating to driving under the influence of intoxicating liquor or a controlled substance; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 1 of this bill requires a court to impose an administrative assessment of \$100, in addition to any other fine or assessment imposed, any time a person pleads guilty or nolo contendere to, or is found guilty of, a charge of driving while under the influence of intoxicating liquor or a controlled substance. Sections 1 and 6 of this bill provide that a portion of any amounts collected from the administrative assessment]~~

Under existing law, of the total amount deposited into the State General Fund from an administrative assessment for a misdemeanor, 51 percent of the amount is distributed for the use of the Judicial Branch and 49 percent is distributed, to the extent of legislative authorization, for the use of certain agencies and funds in the Executive Branch. (NRS 176.059) Section 6 of this bill provides that from that 49 percent of the amount deposited in the State General Fund for the use of certain agencies and funds in the Executive Branch, for each administrative assessment imposed and collected for the offense of driving while under the influence of intoxicating liquor or a controlled substance and the offense of reckless driving, the amount of \$20 must be credited to the Fund for Programs Relating to Impaired Driving which is created as a special revenue fund within the State Treasury and will be administered by the Department of Public Safety. Section ~~6~~ 7 of this bill provides that money in the Fund will be used to support ongoing intervention efforts relating to driving while under the influence of intoxicating liquor or a controlled substance.

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

Section 1. [Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. Except as otherwise provided in subsection 2, in addition to any other administrative assessment imposed, when a defendant pleads guilty or nolo contendere to, or is found guilty of, a charge of driving while under the influence of intoxicating liquor or a controlled substance, the justice or judge, of the justice, municipal or district court, as applicable, shall include in the sentence the sum of \$100 as an administrative assessment for the provision of programs relating to impaired driving and render a judgment against the defendant for the assessment. If the defendant is sentenced to perform community service in lieu of a fine, the sentence must include the administrative assessment required pursuant to this subsection.~~

~~2. The money collected for an administrative assessment for the provision of programs relating to impaired driving 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 dispersed pursuant to subsection 1. 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.~~

~~3.—If the justice or judge permits the fine and administrative assessment for the provision of programs relating to impaired driving 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 pursuant to NRS 176.0613;~~

~~(d) To pay the unpaid balance of an administrative assessment for the provision of programs relating to impaired driving pursuant to this section; and~~

~~(e) To pay the fine.~~

~~4.—Except as otherwise provided in subsections 5, 6 and 7, the money collected for an administrative assessment for the provision of programs relating to impaired driving must be paid by the clerk of the court to the State Treasurer on or before the fifth day of each month for the preceding month for credit to the Fund for Programs Relating to Impaired Driving created pursuant to section 6 of this act.~~

~~5.—Ten percent of the amount collected in district court for an administrative assessment for the provision of programs relating to impaired driving must be paid by the clerk of the court to the State Treasurer on or before the fifth day of each month for the preceding month for credit to a special revenue fund for the use of the district courts.~~

~~6.—Ten percent of the amount collected in municipal court for an administrative assessment for the provision of programs relating to impaired driving 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 for credit to a special revenue fund for the use of the municipal courts.~~

~~7.—Ten percent of the amount collected in justice court for an administrative assessment for the provision of programs relating to impaired driving 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 for credit to a special revenue fund for the use of the justice courts.~~

~~8.—As used in this section "driving while under the influence of intoxicating liquor or a controlled substance" means an act which is unlawful under NRS 484.379.} (Deleted by amendment.)~~

Sec. 2. [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, ~~and section 1 of this act,~~ 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 is found guilty 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 unpaid balance of an administrative assessment for the provision of programs relating to impaired driving pursuant to section 1 of this act; and~~

~~(e) 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. *(Deleted by amendment.)*

Sec. 3. [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, ~~and section 1 of this act,~~ an administrative assessment for the provision of specialty court programs.

2. Except as otherwise provided in subsection 3, when a defendant pleads guilty or is found guilty 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 unpaid balance of an administrative assessment for the provision of programs relating to impaired driving pursuant to section 1 of this act; and~~

~~(e) 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.]
(Deleted by amendment.)

Sec. 4. [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 or nolo contendere to ~~the~~ 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 ~~[.]~~, ~~and section 4 of this act.~~

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.] *(Deleted by amendment.)*

Sec. 5. [NRS 211.245 is hereby amended to read as follows:

211.245 1. If a prisoner fails to make a payment within 10 days after it is due, the district attorney for a county or the city attorney for an incorporated city may file a civil action in any court of competent jurisdiction within this State seeking recovery of:

- (a) The amount of reimbursement due;
- (b) Costs incurred in conducting an investigation of the financial status of the prisoner; and
- (c) Attorney's fees and costs.

2. A civil action brought pursuant to this section must:

- (a) Be instituted in the name of the county or city in which the jail, detention facility or alternative program is located;
- (b) Indicate the date and place of sentencing, including, without limitation, the name of the court which imposed the sentence;
- (c) Include the record of judgment of conviction, if available;
- (d) Indicate the length of time served by the prisoner and, if he has been released, the date of his release; and
- (e) Indicate the amount of reimbursement that the prisoner owes to the county or city.

3. The county or city treasurer of the county or incorporated city in which a prisoner is or was confined shall determine the amount of

reimbursement that the prisoner owes to the city or county. The county or city treasurer may render a sworn statement indicating the amount of reimbursement that the prisoner owes and submit the statement in support of a civil action brought pursuant to this section. Such a statement is prima facie evidence of the amount due.

4. A court in a civil action brought pursuant to this section may award a money judgment in favor of the county or city in whose name the action was brought.

5. If necessary to prevent the disposition of the prisoner's property by the prisoner, or his spouse or agent, a county or city may file a motion for a temporary restraining order. The court may, without a hearing, issue ex parte orders restraining any person from transferring, encumbering, hypothecating, concealing or in any way disposing of any property of the prisoner, real or personal, whether community or separate, except for necessary living expenses.

6. The payment, pursuant to a judicial order, of existing obligations for:

- (a) Child support or alimony;
- (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, ~~and section 1 of this act,~~

↪ has priority over the payment of a judgment entered pursuant to this section.] *(Deleted by amendment.)*

Sec. 6. 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 is found guilty 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 ~~;~~ and

(6) The Fund for Programs Relating to Impaired Driving.

➔ Of the total amount to be distributed pursuant to paragraph (b), for each administrative assessment imposed and collected for the offense of driving while under the influence of intoxicating liquor or a controlled substance and the offense of reckless driving, the amount of \$20 must be credited to the Fund for Programs Relating to Impaired Driving.

9. As used in this section:

(a) "Driving while under the influence of intoxicating liquor or a controlled substance" means a violation of NRS 484.379.

(b) "Juvenile court" has the meaning ascribed to it in NRS 62A.180.

~~[(b)]~~ (c) "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320.

(d) "Reckless driving" means a violation of subsection 1 of NRS 484.348 or subsection 1 of NRS 484.377.

~~[Sec. 6.]~~ Sec. 7. Chapter 480 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Fund for Programs Relating to Impaired Driving is hereby created in the State Treasury as a special revenue fund. ~~The portion of any administrative assessment imposed and collected pursuant to subsection 4 of section 1 of this act must be deposited with the State Treasurer for credit to the Fund.~~

2. The Department shall administer the Fund.

3. The Fund is a continuing fund without reversion. Money in the Fund must be invested as the money in other funds is invested. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.

4. The Department may accept gifts, grants and donations from any source for deposit in the Fund.

5. The Department may use the money in the Fund to support ongoing intervention efforts relating to driving while under the influence of intoxicating liquor or a controlled substance, including, without limitation:

(a) *Awarding grants to state and local governmental entities, including, without limitation, the judicial branches of state and local government that provide programs to address issues relating to driving while under the influence of intoxicating liquor or a controlled substance.*

(b) *Awarding grants to nonprofit agencies that provide programs to address issues relating to driving while under the influence of intoxicating liquor or a controlled substance.*

(c) *Conducting public service announcement campaigns to increase awareness of issues relating to driving while under the influence of intoxicating liquor or a controlled substance.*

(d) *Reimbursing expenses of the Nevada Impaired Driving Advisory Council.*

6. *The Department shall establish:*

(a) *The procedures by which governmental entities and nonprofit agencies may apply for a grant from the Fund;*

(b) *The criteria for determining whether to award a grant from the Fund; and*

(c) *The services for which governmental entities and nonprofit agencies may use money from a grant.*

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

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

Motion carried.

Senate in recess at 3:16 p.m.

SENATE IN SESSION

At 3:22 p.m.

President Krolicki presiding.

Quorum present.

Senate Bill No. 52.

Bill read second time.

The following amendment was proposed by the Committee on Human Resources and Education:

Amendment No. 421.

"SUMMARY—Creates the Governor Guinn Millennium Teaching Scholarship Program ~~and~~ and amends provisions relating to the Governor Guinn Millennium Scholarship Program. (BDR 34-43)"

"AN ACT relating to education; creating the Governor Guinn Millennium Teaching Scholarship Program; requiring the Board of Regents of the University of Nevada to administer the Program and award a certain number

of millennium teaching scholarships; prescribing the requirements for eligibility for ~~those~~ the millennium teaching scholarships; requiring the repayment of money received as millennium teaching scholarships under certain circumstances; revising the definition of "bona fide resident" for purposes of eligibility for a millennium scholarship; revising the criteria for eligibility for receipt of a millennium scholarship; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Governor Guinn Millennium Scholarship Program and provides for payment of the scholarships from the Millennium Scholarship Trust Fund established, in ~~large~~ part, with money paid to the State by various tobacco companies in settlement of certain legal claims. (NRS 396.926)

Sections ~~6 and 7~~ 3-10 of this bill create the Millennium Teaching Scholarship Program to award scholarships from the Trust Fund to eligible students who: (1) enroll in a program of teacher education that prepares a student to obtain a license with an endorsement to teach mathematics, science or special education; and (2) agree to teach in a Nevada public school for at least 3 years. ~~[Eligibility for the millennium teaching scholarships is limited to students who receive a Governor Guinn Millennium Scholarship and who are enrolled in a program of teacher education in special education at the University of Nevada, Las Vegas, or in math or science at the University of Nevada, Reno.]~~

Section ~~7 also~~ 6 of this bill requires the Board of Regents of the University of Nevada to administer the Program and award, to the extent money is available in the Trust Fund, a sufficient number of millennium teaching scholarships to make it likely that the State will gain at least 300 new special education teachers and 100 new math or science teachers each year.

Section 8 of this bill provides that a millennium teaching scholarship will pay 100 percent of certain costs for enrollment in a qualifying program of teacher education that are not satisfied by other grants or scholarships.

Section 10 of this bill requires a recipient of a millennium teaching scholarship to repay the full amount of the money he received if he: (1) ceases to be enrolled in a qualifying program of teacher education; (2) fails to obtain a license to teach in his academic specialty; or (3) fails to teach the academic specialty in a Nevada public school for at least 3 years.

Existing law prescribes the eligibility requirements for students to receive a millennium scholarship. (NRS 396.930) Section 13 of this bill adds a definition of "bona fide resident" for purposes of eligibility for a millennium scholarship to exclude alien students who are not eligible for a state or local benefit under the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. (8 U.S.C. §§ 1601 et seq.) Section 13 also provides that an alien student who is not a bona fide resident may receive a millennium scholarship if the student executes an affidavit declaring his

intention to become a citizen of the United States. The student must repay the millennium scholarship if he does not initiate the process for citizenship within a reasonable period of time.

Section 13 also revises provisions governing eligibility for a millennium scholarship applicable to the graduating class of 2009 and later.

Existing law creates the Department of Employment, Training and Rehabilitation, which provides services relating to employment within this State. (NRS 232.900-232.960) Section 14 of this bill requires the Department to conduct an assessment of the available workforce and projected workforce needs in this State and to report those findings to the Board of Regents and the Legislature.

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

Section 1. NRS 385.34691 is hereby amended to read as follows:

385.34691 1. The State Board shall prepare a plan to improve the achievement of pupils enrolled in the public schools in this State. The plan:

(a) Must be prepared in consultation with:

(1) Employees of the Department;

(2) At least one employee of a school district in a county whose population is 100,000 or more, appointed by the Nevada Association of School Boards;

(3) At least one employee of a school district in a county whose population is less than 100,000, appointed by the Nevada Association of School Boards; and

(4) At least one representative of the Statewide Council for the Coordination of the Regional Training Programs created by NRS 391.516, appointed by the Council; and

(b) May be prepared in consultation with:

(1) Representatives of institutions of higher education;

(2) Representatives of regional educational laboratories;

(3) Representatives of outside consultant groups;

(4) Representatives of the regional training programs for the professional development of teachers and administrators created by NRS 391.512;

(5) The Bureau; and

(6) Other persons who the State Board determines are appropriate.

2. A plan to improve the achievement of pupils enrolled in public schools in this State must include:

(a) A review and analysis of the data upon which the report required pursuant to NRS 385.3469 is based and a review and analysis of any data that is more recent than the data upon which the report is based.

(b) The identification of any problems or factors common among the school districts or charter schools in this State, as revealed by the review and analysis.

(c) Strategies based upon scientifically based research, as defined in 20 U.S.C. § 7801(37), that will strengthen the core academic subjects, as set forth in NRS 389.018.

(d) Strategies to improve the academic achievement of pupils enrolled in public schools in this State, including, without limitation, strategies to:

(1) Instruct pupils who are not achieving to their fullest potential, including, without limitation:

(I) The curriculum appropriate to improve achievement;

(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 389.015 and 389.550; and

(III) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in each subgroup identified in paragraph (b) of subsection 1 of NRS 385.361;

(2) Increase the rate of attendance of pupils and reduce the number of pupils who drop out of school;

(3) Integrate technology into the instructional and administrative programs of the school districts;

(4) Manage effectively the discipline of pupils; and

(5) Enhance the professional development offered for the teachers and administrators employed at public schools in this State to include the activities set forth in 20 U.S.C. § 7801(34) and to address the specific needs of the pupils enrolled in public schools in this State, as deemed appropriate by the State Board.

(e) Strategies designed to provide to the pupils enrolled in middle school, junior high school and high school, the teachers and counselors who provide instruction to those pupils, and the parents and guardians of those pupils information concerning:

(1) The requirements for admission to an institution of higher education and the opportunities for financial aid;

(2) The availability of Governor Guinn Millennium Scholarships pursuant to NRS 396.911 to 396.938, inclusive; ~~and~~

(3) *The availability of Governor Guinn Millennium Teaching Scholarships pursuant to sections 3 to 10, inclusive, of this act; and*

(4) The need for a pupil to make informed decisions about his curriculum in middle school, junior high school and high school in preparation for success after graduation.

(f) An identification, by category, of the employees of the Department who are responsible for ensuring that each provision of the plan is carried out effectively.

(g) For each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.

(h) For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic

achievement of pupils, increasing the rate of attendance of pupils and reducing the number of pupils who drop out of school.

(i) Strategies to improve the allocation of resources from this State, by program and by school district, in a manner that will improve the academic achievement of pupils. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(j) Based upon the reallocation of resources set forth in paragraph (i), the resources available to the State Board and the Department to carry out the plan, including, without limitation, a budget for the overall cost of carrying out the plan.

(k) A summary of the effectiveness of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

3. The State Board shall:

(a) Review the plan prepared pursuant to this section annually to evaluate the effectiveness of the plan; and

(b) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that the plan is designed to improve the academic achievement of pupils enrolled in public schools in this State.

4. On or before December 15 of each year, the State Board shall submit the plan or the revised plan, as applicable, to the:

- (a) Governor;
- (b) Committee;
- (c) Bureau;
- (d) Board of Regents of the University of Nevada;
- (e) Council to Establish Academic Standards for Public Schools created by NRS 389.510;
- (f) Board of trustees of each school district; and
- (g) Governing body of each charter school.

Sec. 2. Chapter 396 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 10, inclusive, of this act.

Sec. 3. *As used in sections 3 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Millennium teaching scholarship" means a Governor Guinn Millennium Teaching Scholarship that is awarded from the Trust Fund to a student who is enrolled in a qualifying program of teacher education.*

Sec. 5. *"Qualifying program of teacher education" means an academic program offered ~~at the University of Nevada, Las Vegas, or the University of Nevada, Reno,~~ by an eligible institution that prepares a student to obtain*

a license with an endorsement to teach mathematics, science or special education.

Sec. 6. 1. The Millennium Teaching Scholarship Program is hereby created for the distribution of millennium teaching scholarships in accordance with the provisions of sections 3 to 10, inclusive, of this act.

2. The Board of Regents shall administer the Millennium Teaching Scholarship Program.

3. The Board of Regents shall, within the limits of money available in the Trust Fund, award the number of millennium teaching scholarships that the Board of Regents determines is likely to ensure that each year:

(a) At least 300 students complete a qualifying program of teacher education in special education; and

(b) At least 100 students complete a qualifying program of teacher education in mathematics or science.

Sec. 7. A student who has completed 30 or more college-level credits may apply to the Board of Regents for a millennium teaching scholarship for each semester in which the student:

1. Receives a millennium scholarship;

2. Is enrolled in a qualifying program of teacher education in ~~fr~~

~~(a) Special education, if the student is enrolled at the University of Nevada, Las Vegas; or~~

~~(b) Mathematics or science, if the student is enrolled at the University of Nevada, Reno;~~ an eligible institution;

3. Agrees to:

(a) Complete the qualifying program of teacher education;

(b) Obtain a license to teach in the academic specialty of his qualifying program of teacher education; and

(c) Teach the academic specialty in a public school in this State for at least 3 years after he obtains the license; and

4. Satisfies any other requirements established by the Board of Regents.

Sec. 8. Within the limits of money available in the Trust Fund, a student who is awarded a millennium teaching scholarship for a semester is entitled to receive from the Trust Fund the amount of money that is necessary to pay 100 percent of the costs to enroll in a qualifying program of teacher education that are not satisfied by other grants or scholarships. The costs are limited to:

1. Registration fees and laboratory fees and expenses;

2. Required textbooks and course materials; and

3. Any other costs related to the enrollment of the student in the qualifying program of teacher education that are approved by the Board of Regents.

Sec. 9. 1. The Board of Regents shall, at the beginning of each semester, provide to the State Treasurer a certified list of the students to whom the Board of Regents has awarded a millennium teaching scholarship and the amount of money awarded to each student.

2. *The State Treasurer shall disburse the money awarded to a student as a millennium teaching scholarship directly to the ~~university~~ eligible institution the student attends upon certification from the ~~university~~ eligible institution that the student is enrolled in a qualifying program of teacher education.*

~~f 3. The University of Nevada, Las Vegas, and the University of Nevada, Reno, shall administer the millennium teaching scholarships.~~

Sec. 10. 1. *A recipient of a millennium teaching scholarship shall repay to the Board of Regents the full amount of the money he received as a millennium teaching scholarship if the recipient:*

- (a) Ceases to be enrolled in a qualifying program of teacher education;*
- (b) Fails to obtain a license with an endorsement to teach in the academic specialty for which he received a millennium teaching scholarship; or*
- (c) Fails to teach the academic specialty in a public school in this State for at least 3 years.*

2. *The Board of Regents shall:*

- (a) Establish the procedure for the repayment of money required by subsection 1; and*
- (b) Deposit in the Trust Fund any money it receives pursuant to subsection 1.*

Sec. 11. NRS 396.914 is hereby amended to read as follows:

396.914 As used in NRS 396.911 to 396.938, inclusive, *and sections 3 to 10, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 396.916, 396.918 and 396.922 have the meanings ascribed to them in those sections.

Sec. 12. NRS 396.926 is hereby amended to read as follows:

396.926 1. The Governor Guinn Millennium Scholarship Program is hereby created for the distribution of the Governor Guinn Millennium Scholarships in accordance with NRS 396.911 to 396.938, inclusive. The Millennium Scholarship Trust Fund is hereby created in the State Treasury. The State Treasurer may accept gifts, grants, bequests and donations for deposit in the Trust Fund.

2. The State Treasurer shall deposit in the Trust Fund:

- (a) Forty percent of all money received by the State of Nevada pursuant to any settlement entered into by the State of Nevada and a manufacturer of tobacco products;*
- (b) Forty percent of all money recovered by the State of Nevada from a judgment in a civil action against a manufacturer of tobacco products; and*
- (c) Any gifts, grants, bequests or donations specifically designated for the Trust Fund by the donor.*

3. The State Treasurer shall administer the Trust Fund. As administrator of the Trust Fund, the State Treasurer, except as otherwise provided in this section:

- (a) Shall maintain the financial records of the Trust Fund;*

(b) Shall invest the money in the Trust Fund as the money in other state funds is invested;

(c) Shall manage any account associated with the Trust Fund;

(d) Shall maintain any instruments that evidence investments made with the money in the Trust Fund;

(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and

(f) May perform any other duties necessary to administer the Trust Fund.

4. In addition to the investments authorized pursuant to paragraph (b) of subsection 3, the State Treasurer may, except as otherwise provided in subsection 5, invest the money in the Trust Fund in:

(a) Common or preferred stock of a corporation created by or existing under the laws of the United States or of a state, district or territory of the United States, if:

(1) The stock of the corporation is:

(I) Listed on a national stock exchange; or

(II) Traded 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);

(2) The outstanding shares of the corporation have a total market value of not less than \$50,000,000;

(3) The maximum investment in stock is not greater than 25 percent of the book value of the total investments of the Trust Fund;

(4) Except for investments made pursuant to paragraph (c), the amount of an investment in a single corporation is not greater than 3 percent of the book value of the assets of the Trust Fund; and

(5) Except for investments made pursuant to paragraph (c), the total amount of shares owned by the Trust Fund is not greater than 5 percent of the outstanding stock of a single corporation.

(b) A pooled or commingled real estate fund or a real estate security that is managed by a corporate trustee or by an investment advisory firm that is registered with the Securities and Exchange Commission, either of which may be retained by the State Treasurer as an investment manager. The shares and the pooled or commingled fund must be held in trust. The total book value of an investment made under this paragraph must not at any time be greater than 5 percent of the total book value of all investments of the Trust Fund.

(c) Mutual funds or common trust funds that consist of any combination of the investments authorized pursuant to paragraph (b) of subsection 3 and paragraphs (a) and (b) of this subsection.

5. The State Treasurer shall not invest any money in the Trust Fund pursuant to subsection 4 unless the State Treasurer obtains a judicial determination that the proposed investment or category of investments will not violate the provisions of Section 9 of Article 8 of the Constitution of the State of Nevada. The State Treasurer shall contract for the services of

independent contractors to manage any investments of the State Treasurer made pursuant to subsection 4. The State Treasurer shall establish such criteria for the qualifications of such an independent contractor as are appropriate to ensure that each independent contractor has expertise in the management of such investments.

6. All interest and income earned on the money in the Trust Fund must, after deducting any applicable charges, be credited to the Trust Fund. All claims against the Trust Fund must be paid as other claims against the State are paid.

7. Not more than 3 percent of the anticipated annual revenue to the State of Nevada from the settlement agreements with and civil actions against manufacturers of tobacco products anticipated for deposit in the Trust Fund may be used to pay the costs of administering the Trust Fund.

8. The money in the Trust Fund remains in the Trust Fund and does not revert to the State General Fund at the end of any fiscal year.

9. Money in the Trust Fund may be used only for the purposes set forth in NRS 396.914 to 396.934, inclusive ~~[-]~~, and sections 3 to 10, inclusive, of this act.

10. The State Treasurer shall, upon the request of the Board of Regents and to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, provide the Board of Regents access to statistical data and information relating to recipients of a millennium scholarship and students who are eligible to receive a millennium scholarship.

Sec. 13. NRS 396.930 is hereby amended to read as follows:

396.930 1. Except as otherwise provided in subsections 2 and 3, a student may apply to the Board of Regents for a millennium scholarship if he:

(a) Has been a *bona fide* resident of this State for at least 2 years before he applies for the scholarship;

(b) Except as otherwise provided in paragraph (c), graduated from a public or private high school in this State:

(1) After May 1, 2000, but not later than May 1, 2003; or

(2) After May 1, 2003, and, except as otherwise provided in paragraph (c) of subsection 2, not more than 6 years before he applies for the scholarship;

(c) Does not satisfy the requirements of paragraph (b) and:

(1) Was enrolled as a pupil in a public or private high school in this State with a class of pupils who were regularly scheduled to graduate after May 1, 2000;

(2) Received his high school diploma within 4 years after he was regularly scheduled to graduate; and

(3) Applies for the scholarship not more than 6 years after he was regularly scheduled to graduate from high school;

(d) Maintained in high school in the courses designated by the Board of Regents pursuant to paragraph (b) of subsection 2, at least:

(1) A 3.00 grade point average on a 4.0 grading scale, if he was a member of the graduating class of 2003 or 2004;

(2) A 3.10 grade point average on a 4.0 grading scale, if he was a member of the graduating class of 2005 or 2006; or

(3) A 3.25 grade point average on a 4.0 grading scale, if he was a member of the graduating class of 2007 or ~~in a later graduating class; and~~ 2008;

(e) Was a member of the graduating class of 2009 or a later graduating class and:

(1) Maintained in high school in the core curriculum defined by the Board of Regents pursuant to paragraph (a) of subsection 2, at least a 3.25 grade point average on a 4.0 grading scale; or

(2) Achieved the minimum score established by the Board of Regents pursuant to paragraph (e) of subsection 2 on:

(I) The ACT administered by ACT, Inc., including the multiple-choice test and the writing test; or

(II) The SAT administered by Educational Testing Services; and

(f) Is enrolled in at least:

(1) Six semester credit hours in a community college within the System;

or

(2) Twelve semester credit hours in another eligible institution.

2. The Board of Regents:

(a) Shall define the core curriculum that a student must complete in high school to be eligible for a millennium scholarship.

(b) Shall designate the courses in which a student must earn the minimum grade point averages set forth in paragraph (d) of subsection 1.

(c) May establish criteria with respect to students who have been on active duty serving in the Armed Forces of the United States to exempt such students from the 6-year limitation on applications that is set forth in subparagraph (2) of paragraph (b) of subsection 1.

(d) Shall establish criteria with respect to students who have a documented physical or mental disability or who were previously subject to an individualized education program under the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., or a plan under Title V of the Rehabilitation Act of 1973, 29 U.S.C. §§ 791 et seq. The criteria must provide an exemption for those students from:

(1) The 6-year limitation on applications that is set forth in subparagraph (2) of paragraph (b) of subsection 1 and subparagraph (3) of paragraph (c) of subsection 1 and any limitation applicable to students who are eligible pursuant to subparagraph (1) of paragraph (b) of subsection 1.

(2) The minimum number of credits prescribed in paragraph ~~(e)~~ (f) of subsection 1.

(e) Shall establish the minimum score on the ACT and SAT for purposes of subparagraph (2) of paragraph (e) of subsection 1.

3. Except as otherwise provided in paragraph (c) of subsection 1, for students who did not graduate from a public or private high school in this State and who have been *bona fide* residents of this State for at least 2 years, the Board of Regents shall establish:

(a) The minimum score on a standardized test that such students must receive; or

(b) Other criteria that students must meet,
➔ to be eligible for millennium scholarships.

4. In awarding scholarships, the Board of Regents shall enhance its outreach to students who:

(a) Are pursuing a career in education or health care;

(b) Come from families who lack sufficient financial resources to pay for the costs of sending their children to an eligible institution; or

(c) Substantially participated in an antismoking, antidrug or antialcohol program during high school.

5. The Board of Regents shall establish a procedure for the repayment of a millennium scholarship to the Trust Fund by a student who signs an affidavit for purposes of subsection 6 declaring his intention to become a citizen of the United States and who does not within a reasonable period of time initiate the process for citizenship.

6. As used in this section, "bona fide resident" shall be construed in accordance with the provisions of NRS 10.155 and policies established by the Board of Regents, to the extent that those policies do not conflict with this section or any other statute. The term does not include an alien who is not eligible for a state or local public benefit as determined in accordance with 8 U.S.C. § 1621 unless the alien has executed an affidavit declaring his intention to become a citizen of the United States. The qualification "bona fide" is intended to ensure that the residence is genuine and established for purposes other than to be eligible for a scholarship.

Sec. 14. Chapter 232 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall:

(a) Evaluate the immediate workforce needs of employers in this State and existing shortages in the workforce;

(b) Make a 5-year projection of the workforce needs of employers in this State and the anticipated shortages in the workforce; and

(c) Make a 10-year projection of the workforce needs of employers in this State and the anticipated shortages in the workforce.

2. On or before June 30 of each even-numbered year, the Department shall prepare a written report for submission to the Governor, the Board of Regents of the University of Nevada and the Director of the Legislative Counsel Bureau, for transmission to the next regular session of the

Legislature, setting forth the results of the evaluation conducted and the projections made pursuant to subsection 1.

Sec. 15. NRS 232.900 is hereby amended to read as follows:

232.900 As used in NRS 232.900 to 232.960, inclusive, and section 14 of this act, unless the context otherwise requires:

1. "Department" means the Department of Employment, Training and Rehabilitation.

2. "Director" means the Director of the Department.

Sec. 16. 1. On or before September 1, 2007, the Board of Regents of the University of Nevada shall:

(a) Define the core curriculum for purposes of subparagraph (1) of paragraph (e) of subsection 1 of NRS 396.930, as amended by section 13 of this act.

(b) Establish the minimum score on the ACT and SAT for purposes of subparagraph (2) of paragraph (e) of subsection 1 of NRS 396.930, as amended by section 13 of this act.

2. The Board of Regents shall ensure that students who are members of the graduating class of 2009 or a later graduating class receive adequate notice of the courses that are defined as the core curriculum and the score that the students may receive on the ACT or SAT for purposes of paragraph (e) of subsection 1 of NRS 396.930, as amended by section 13 of this act.

~~[Sec. 13.]~~ *Sec. 17. This act becomes effective on July 1, 2007.*

Senator Washington moved the adoption of the amendment.

Remarks by Senators Washington, Coffin and Titus.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 62.

Bill read second time.

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

Amendment No. 562.

"SUMMARY—Revises provisions ~~[regarding the number of license plates displayed on vehicles.]~~ relating to the attachment of license plates to motor vehicles. (BDR 43-432)"

"AN ACT relating to license plates; ~~[reducing the number of license plates issued by the Department of Motor Vehicles to registered motor vehicles to only one plate per vehicle; requiring the license plate to be attached to the rear of the vehicle;]~~ requiring a vehicle dealer to attach a bracket, device or other contrivance to display and secure a front license plate to a motor vehicle if the motor vehicle is manufactured to include such a bracket, device or other contrivance; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 4 of this bill amends the existing requirement for the Department of Motor Vehicles to issue a set of two license plates to most registered motor vehicles to require instead that the Department issue only one license plate to every registered motor vehicle in the State. (NRS 482.265) Section 8 of this bill requires that the one license plate be attached to the rear of the vehicle, instead of the set being attached to the front and the rear of the vehicle. (NRS 482.275) Sections 1, 3, 5, 7 and 9-87 of this bill contain technical changes to carry out sections 4 and 8 of this bill, changing language which references a set of plates, or multiple plates, to language which reflects the new requirement for each vehicle to have only one plate.] Existing law requires that license plates be attached to the front and rear of a motor vehicle. If a motor vehicle does not have a bracket, device or other contrivance to attach a front license plate, the motor vehicle may be operated with a license plate attached only to the rear of the vehicle. (NRS 482.275) This bill requires a vehicle dealer to attach a bracket, device or other contrivance to the front of any motor vehicle before the dealer delivers the vehicle to the purchaser or long-term lessee if the motor vehicle has been manufactured to include such a bracket, device or other contrivance.~~

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

Delete existing sections 1 through 87 of this bill and replace with the following new section 1:

Section 1. NRS 482.275 is hereby amended to read as follows:

482.275 1. The license plates for a motor vehicle other than a motorcycle, power cycle or motor vehicle being transported by a licensed vehicle transporter must be attached thereto, one in the rear and, except as otherwise provided in subsection 2, one in the front. The license plate issued for all other vehicles required to be registered must be attached to the rear of the vehicle. The license plates must be so displayed during the current calendar year or registration period.

2. If the motor vehicle was not manufactured to include a bracket, device or other contrivance to display and secure a front license plate, and if the manufacturer of the motor vehicle provided no other means or method by which a front license plate may be displayed upon and secured to the motor vehicle:

- (a) One license plate must be attached to the motor vehicle in the rear; and
- (b) The other license plate may, at the option of the owner of the vehicle, be attached to the motor vehicle in the front.

3. The provisions of subsection 2 do not relieve the Department of the duty to issue a set of two license plates as otherwise required pursuant to NRS 482.265 or other applicable law and do not entitle the owner of a motor vehicle to pay a reduced tax or fee in connection with the registration or transfer of the motor vehicle. If the owner of a motor vehicle, in accordance with the provisions of subsection 2, exercises the option to attach a license plate only to the rear of the motor vehicle, the owner shall:

- (a) Retain the other license plate; and
- (b) Insofar as it may be practicable, return or surrender both plates to the Department as a set when required by law to do so.

4. If a motor vehicle was manufactured to include a bracket, device or other contrivance to display and secure a front license plate to the motor vehicle but the manufacturer did not attach the bracket, device or other contrivance to the front of the motor vehicle, the vehicle dealer who sells or leases the motor vehicle shall securely attach the bracket, device or other contrivance before the dealer delivers the motor vehicle to a purchaser or long-term lessee.

5. Every license plate must at all times be securely fastened to the vehicle to which it is assigned so as to prevent the plate from swinging and at a height not less than 12 inches from the ground, measuring from the bottom of such plate, in a place and position to be clearly visible, and must be maintained free from foreign materials and in a condition to be clearly legible.

~~{5.}~~ 6. Any license plate which is issued to a vehicle transporter or a dealer, rebuilder or manufacturer may be attached to a vehicle owned or controlled by that person by a secure means. No license plate may be displayed loosely in the window or by any other unsecured method in any motor vehicle.

Senator Nolan moved the adoption of the amendment.

Remarks by Senators Nolan, Care and Hardy.

Motion failed.

Bill ordered to third reading.

Senate Bill No. 216.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 290.

"SUMMARY—Allows certain convicted persons to make a monetary ~~[donation to a charitable organization]~~ contribution in lieu of performing community service. (BDR 14-929)"

"AN ACT relating to criminal penalties; allowing certain convicted persons to make a monetary ~~[donation to a charitable organization]~~ contribution in lieu of performing community service; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law allows a court to order certain convicted persons to perform community service in lieu of any fine or imprisonment that may be imposed for the commission of a misdemeanor or as a condition of probation granted for another offense. (NRS 176.087) This bill allows a court to order certain convicted persons to make a monetary ~~[donation]~~ contribution to ~~[certain charitable organizations]~~ the general fund of the jurisdiction in which the person was convicted in lieu of the community service that would otherwise

be ordered. *This bill also establishes the criteria by which the amount of such monetary contributions must be determined.*

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

Section 1. NRS 176.087 is hereby amended to read as follows:

176.087 1. Except where the imposition of a specific criminal penalty is mandatory, a court may order a convicted person to perform supervised community service:

(a) In lieu of all or a part of any fine or imprisonment that may be imposed for the commission of a misdemeanor; or

(b) As a condition of probation granted for another offense.

2. The community service must be performed for and under the supervising authority of a county, city, town or other political subdivision or agency of the State of Nevada or a charitable organization that renders service to the community or its residents.

3. The court may require the convicted person to deposit with the court a reasonable sum of money to pay for the cost of policies of insurance against liability for personal injury and damage to property or for industrial insurance, or both, during those periods in which he performs the community service, unless, in the case of industrial insurance, it is provided by the authority for which he performs the community service.

4. The following conditions apply to any such community service imposed by the court:

(a) The court must fix the period of community service that is imposed as punishment or a condition of probation and distribute the period over weekends or over other appropriate times that will allow the convicted person to continue at his employment and to care for his family. The period of community service fixed by the court must not exceed, for a:

(1) Misdemeanor, 200 hours;

(2) Gross misdemeanor, 600 hours; or

(3) Felony, 1,000 hours.

(b) A supervising authority listed in subsection 2 must agree to accept the convicted person for community service before the court may require him to perform community service for that supervising authority. The supervising authority must be located in or be the town or city of the convicted person's residence or, if that placement is not possible, one located within the jurisdiction of the court or, if that placement is not possible, the authority may be located outside the jurisdiction of the court.

(c) Community service that a court requires pursuant to this section must be supervised by an official of the supervising authority or by a person designated by the authority.

(d) The court may require the supervising authority to report periodically to the court or to a probation officer the convicted person's performance in carrying out the punishment or condition of probation.

5. ~~If a court may order a convicted person to make a monetary donation to a charitable organization that renders service to the community or its residents in lieu of all or part of any performance of community service that would otherwise be ordered pursuant to subsection 1. The monetary donation must be made to a charitable organization located in the State of Nevada and within the city or county where the offense was committed or, if such an organization does not exist in the city or county where the offense was committed, the monetary donation may be made to a charitable organization outside the city or county where the offense was committed.~~ If a court makes a special finding based on evidence satisfactory to the court that a convicted person is incapable of performing community service, the court may order the convicted person to make a monetary contribution to the general fund of the jurisdiction in which the person was convicted in lieu of all or part of any community service that would otherwise be ordered pursuant to subsection 1.

6. The amount of any monetary contribution ordered pursuant to subsection 5 must be determined by multiplying the number of community service hours that would otherwise have been imposed pursuant to subsection 4 by the mean statewide hourly wage of all building and grounds cleaning and maintenance occupations according to the Department of Employment, Training and Rehabilitation.

7. Any monetary contribution collected pursuant to subsection 5 must be used only to defray costs associated with the administration of criminal justice in the jurisdiction in which the money is collected.

8. As used in this section, "special finding" means a determination by the court that:

(a) The convicted person has a physical or mental limitation that would prevent him from safely performing the community service, or would otherwise constitute an unreasonable burden upon the supervising authority;
or

(b) The convicted person does not reside in the county where the offense was committed and requiring the convicted person to return to the county solely to perform the community service would result in an unreasonable burden upon the convicted person.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 232.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 269.

"SUMMARY—Makes various changes to the provisions governing sex offenders. (BDR 14-17)"

"AN ACT relating to sex offenders; ~~revising the provisions pertaining to pleas involving sexual offenses;~~ revising the provisions concerning certain sex offenders who are on lifetime supervision or released on parole, probation or a suspended sentence; increasing the minimum sentence for certain sexual offenses committed against a child; revising the penalty for a violation of a condition imposed pursuant to the program of lifetime supervision of sex offenders; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Existing law allows a defendant to plead guilty, not guilty or, with the consent of the court, nolo contendere. (NRS 174.035) Section 1 of this bill provides that the court may not accept a plea of nolo contendere to a sexual offense and may accept a plea of guilty to a sexual offense only if the defendant admits that he committed the offense. Section 1 also provides that a prosecuting attorney may not dismiss a charge for a sexual offense in exchange for a plea of guilty to a lesser charge unless the lesser charge is also a sexual offense, except when the charge and all lesser charges are not supported by probable cause or cannot be proved at trial.]~~

Existing law sets forth certain conditions to be imposed on sex offenders placed under a program of lifetime supervision or released on parole, probation or a suspended sentence. (NRS 176A.410, 213.1243, 213.1245, 213.1255) Sections 4, 6 and 7 of this bill prohibit such sex offenders who have been assigned a Tier 3 level of notification from going near certain locations frequented primarily by children. Sections 4, 6 and 8 of this bill prohibit such sex offenders convicted of a sexual offense against a child under the age of 14 years and assigned a Tier 3 level of notification from establishing residences within ~~[2,000]~~ 1,000 feet of certain locations frequented primarily by children. Sections 4, 6 and 8 also require such sex offenders to be placed under a system of active electronic monitoring under certain circumstances and to pay any costs associated with their participation under the system of active electronic monitoring, to the extent of their ability to pay. Sections 4, 6 and 8 further prohibit persons from removing or disabling an electronic monitoring device without authorization.

Under existing law, a sex offender who commits a violation of a condition of his lifetime supervision is guilty of a misdemeanor for a minor violation or a category B felony for a major violation. (NRS 213.1243) Section 6 of this bill eliminates the classification of violations and makes all such violations punishable as a category B felony. Section 6 also requires a court that issues an arrest warrant for a violation of a condition imposed pursuant to the program of lifetime supervision to transmit notice of the issuance of the warrant to the Central Repository for Nevada Records of Criminal History within 3 business days.

Existing law establishes the imposition of minimum sentences for certain sexual offenses committed against a child. (NRS 200.366) Section 5 of this bill increases the minimum number of years that must be served before a

person is eligible for parole for committing a sexual assault against a child under the age of 16 years that does not result in substantial bodily harm to the child from 20 to 25 years. Section 5 also increases the minimum number of years that must be served before a person is eligible for parole for committing a sexual assault against a child under the age of 14 years that does not result in substantial bodily harm to the child from 20 to 35 years.

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

Section 1. ~~[Chapter 174 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The court may not accept from a defendant a plea of nolo contendere to a sexual offense.~~

~~2. The court may accept from a defendant a plea of guilty to a sexual offense only if the defendant admits in court that he committed the sexual offense.~~

~~3. Except as otherwise provided in subsection 4, a prosecuting attorney may not dismiss a sexual offense for which a defendant is charged in exchange for a plea of guilty to a lesser charge unless the lesser charge is also a sexual offense.~~

~~4. The provisions of subsection 3 do not apply if, in the judgment of the prosecuting attorney, the sexual offense for which the defendant is charged and all other sexual offenses that are lesser charges are not supported by probable cause or cannot be proved at trial.~~

~~5. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179A.073.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 174.035 is hereby amended to read as follows:~~

~~174.035 1. Except as otherwise provided in section 1 of this act, a defendant may plead not guilty, guilty or, with the consent of the court, nolo contendere. The court may refuse to accept a plea of guilty.~~

~~2. If a plea of guilty 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 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 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. 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. If a defendant refuses to plead or if the court refuses to accept or otherwise may not accept pursuant to section 1 of this act a plea of guilty, or if a defendant corporation fails to appear, the court shall enter a plea of not guilty.~~

~~6. A defendant may not enter a plea of guilty 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.] (Deleted by amendment.)~~

Sec. 3. NRS 176.0926 is hereby amended to read as follows:

176.0926 1. If a defendant is convicted of a crime against a child, the court shall, following the imposition of a sentence:

(a) Notify the Central Repository of the conviction of the defendant, so the Central Repository may carry out the provisions for registration of the defendant pursuant to NRS 179D.230.

(b) Inform the defendant of the requirements for registration, including, but not limited to:

(1) The duty to register in this State during any period in which he is a resident of this State or a nonresident who is a student or worker within this State and the time within which he is required to register pursuant to NRS 179D.240;

(2) The duty to register in any other jurisdiction, *including, without limitation, any jurisdiction outside the United States*, during any period in which he is a resident of the other jurisdiction or a nonresident who is a student or worker within the other jurisdiction;

(3) If he moves from this State to another jurisdiction, *including, without limitation, any jurisdiction outside the United States*, the duty to register with the appropriate law enforcement agency in the other jurisdiction;

(4) The duty to notify the local law enforcement agency in whose jurisdiction he formerly resided, in person or in writing, if he changes the address at which he resides, including if he moves from this State to another jurisdiction, *including, without limitation, any jurisdiction outside the United States*, or changes the primary address at which he is a student or worker; and

(5) The duty to notify immediately the appropriate local law enforcement agency if the defendant is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education or if the defendant is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education.

(c) Require the defendant to read and sign a form confirming that the requirements for registration have been explained to him.

2. The failure to provide the defendant with the information or confirmation form required by paragraphs (b) and (c) of subsection 1 does not affect the duty of the defendant to register and to comply with all other provisions for registration pursuant to NRS 179D.200 to 179D.290, inclusive.

Sec. 4. NRS 176A.410 is hereby amended to read as follows:

176A.410 1. Except as otherwise provided in subsection ~~{3,}~~ 6, if a defendant is convicted of a sexual offense and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension of sentence that the defendant:

(a) Submit to a search and seizure of his person, residence or vehicle or any property under his control, at any time of the day or night, without a warrant, by any parole and probation officer or any peace officer, for the purpose of determining whether the defendant has violated any condition of probation or suspension of sentence or committed any crime . ~~{;}~~

(b) Reside at a location only if ~~{it}~~ :

(1) *The residence* has been approved by the parole and probation officer assigned to the defendant . ~~{and keep}~~

(2) *The defendant keeps* the parole and probation officer *assigned to the defendant* informed of his current address . ~~{;}~~

(c) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the defendant and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer . ~~{;}~~

(d) Abide by any curfew imposed by the parole and probation officer assigned to the defendant . ~~{;}~~

(e) Participate in and complete a program of professional counseling approved by the Division . ~~{;}~~

(f) Submit to periodic tests, as requested by the parole and probation officer assigned to the defendant, to determine whether the defendant is using a controlled substance . ~~{;}~~

(g) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the defendant . ~~{;}~~

(h) Abstain from consuming, possessing or having under his control any alcohol . ~~{;}~~

(i) Not have contact or communicate with a victim of the sexual offense or a witness who testified against the defendant or solicit another person to engage in such contact or communication on behalf of the defendant, unless approved by the parole and probation officer assigned to the defendant, and a written agreement is entered into and signed in the manner set forth in subsection ~~{2;}~~ 5.

(j) Not use aliases or fictitious names . ~~{;}~~

(k) Not obtain a post office box unless the defendant receives permission from the parole and probation officer assigned to the defendant . ~~{-}~~

(l) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of a sexual offense is present and permission has been obtained from the parole and probation officer assigned to the defendant in advance of each such contact . ~~{-}~~

(m) Unless approved by the parole and probation officer assigned to the defendant and by a psychiatrist, psychologist or counselor treating the defendant, if any, not ~~be~~ ~~{-}~~ ~~in or near~~ ~~{-}~~

~~(1) A~~ ~~knowingly be within 500 feet of any place , or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, {school or school grounds;~~

~~(2) A~~ ~~an athletic field or a facility for youth sports, or a motion picture theater . {-}~~ ~~or~~

~~(3) A business that primarily has children as customers or conducts events that primarily children attend;}~~ The provisions of this paragraph apply only to a defendant who has been assigned a Tier 3 level of notification.

(n) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication . ~~{-}~~

(o) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the defendant . ~~{-}~~

(p) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the defendant . ~~{-}~~

(q) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the defendant . ~~{-}~~ ~~and~~

(r) Inform the parole and probation officer assigned to the defendant if the defendant expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. *Except as otherwise provided in subsection 6, if a defendant is convicted of an offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years , the defendant is assigned a Tier 3 level of notification and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to*

subsection 1, order as a condition of probation or suspension of sentence that the defendant:

(a) *Reside at a location only if the residence is not located within ~~{2,000}~~ 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.*

(b) ~~{Be}~~ *As deemed appropriate by the Chief Parole and Probation Officer, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.*

(c) *Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.*

3. *A defendant placed under the system of active electronic monitoring pursuant to subsection 2 shall:*

(a) *Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.*

(b) *Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.*

(c) *Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.*

4. *Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a defendant pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.*

5. *A written agreement entered into pursuant to paragraph (i) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:*

- (a) *The victim or the witness;*
- (b) *The defendant;*
- (c) *The parole and probation officer assigned to the defendant;*
- (d) *The psychiatrist, psychologist or counselor treating the defendant, victim or witness, if any; and*
- (e) *If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.*

~~{3-}~~ 6. *The court is not required to impose a condition of probation or suspension of sentence listed in ~~{subsection}~~ subsections 1 and 2 if the court*

finds that extraordinary circumstances are present and the court enters those extraordinary circumstances in the record.

~~[4-]~~ 7. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.410.

Sec. 5. NRS 200.366 is hereby amended to read as follows:

200.366 1. A person who subjects another person to sexual penetration, or who forces another person to make a sexual penetration on himself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his conduct, is guilty of sexual assault.

2. Except as otherwise provided in subsections 3 and 4, a person who commits a sexual assault is guilty of a category A felony and shall be punished:

(a) If substantial bodily harm to the victim results from the actions of the defendant committed in connection with or as a part of the sexual assault, by imprisonment in the state prison:

(1) For life without the possibility of parole; or

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served.

(b) If no substantial bodily harm to the victim results, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served.

3. Except as otherwise provided in subsection 4, a person who commits a sexual assault against a child under the age of 16 years is guilty of a category A felony and shall be punished:

(a) If the crime results in substantial bodily harm to the child, by imprisonment in the state prison for life without the possibility of parole.

(b) Except as otherwise provided in paragraph (c), if the crime does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of ~~[20]~~ 25 years has been served.

(c) If the crime is committed against a child under the age of 14 years and does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of ~~[20]~~ 35 years has been served.

4. A person who commits a sexual assault against a child under the age of 16 years and who has been previously convicted of:

(a) A sexual assault pursuant to this section or any other sexual offense against a child; or

(b) An offense committed in another jurisdiction that, if committed in this State, would constitute a sexual assault pursuant to this section or any other sexual offense against a child,

➔ is guilty of a category A felony and shall be punished by imprisonment in the state prison for life without the possibility of parole.

5. For the purpose of this section, "other sexual offense against a child" means any act committed by an adult upon a child constituting:

- (a) Incest pursuant to NRS 201.180;
- (b) Lewdness with a child pursuant to NRS 201.230;
- (c) Sado-masochistic abuse pursuant to NRS 201.262; or
- (d) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony.

Sec. 6. NRS 213.1243 is hereby amended to read as follows:

213.1243 1. The Board shall establish by regulation a program of lifetime supervision of sex offenders to commence after any period of probation or any term of imprisonment and any period of release on parole. The program must provide for the lifetime supervision of sex offenders by parole and probation officers.

2. Lifetime supervision shall be deemed a form of parole for:

(a) The limited purposes of the applicability of the provisions of NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and subsection 2 of NRS 213.110; and

(b) The purposes of the Interstate Compact for Adult Offender Supervision ratified, enacted and entered into by the State of Nevada pursuant to NRS 213.215.

3. *Except as otherwise provided in subsection 8, the Board shall require as a condition of lifetime supervision that the sex offender, unless approved by the parole and probation officer assigned to the sex offender and by a psychiatrist, psychologist or counselor treating the sex offender, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this subsection apply only to a sex offender who has been assigned a Tier 3 level of notification.*

4. *Except as otherwise provided in subsection 8, if a person is convicted of a sexual offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the person is assigned a Tier 3 level of notification and the person is sentenced to lifetime supervision, the Board shall, in addition to the condition described in subsection 3, require as a condition of lifetime supervision that the person:*

(a) Reside at a location only if the residence is not located within ~~2,000~~ 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.

(b) ~~Be~~ *As deemed appropriate by the Chief, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.*

(c) *Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.*

5. *A person placed under the system of active electronic monitoring pursuant to subsection 4 shall:*

(a) *Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.*

(b) *Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.*

(c) *Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.*

6. *Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a person pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.*

7. *Except as otherwise provided in subsection 6, a person who commits a violation of a condition imposed on him pursuant to the program of lifetime supervision is guilty of [—*

~~(a) If the violation constitutes a minor violation, a misdemeanor.~~

~~(b) If the violation constitutes a major violation,~~ *a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.*

~~[4.]~~ 8. *The Board is not required to impose a condition pursuant to the program of lifetime supervision listed in subsections 3 and 4 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.*

9. *If a court issues a warrant for arrest for a violation of this section, the court shall cause to be transmitted, in the manner prescribed by the Central Repository for Nevada Records of Criminal History, notice of the issuance of the warrant for arrest in a manner which ensures that such notice is received by the Central Repository within 3 business days.*

10. *For the purposes of prosecution of a violation by a person of a condition imposed upon him pursuant to the program of lifetime supervision, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of lifetime supervision pursuant to NRS 176.0931 is located, regardless of*

whether the acts or conduct constituting the violation took place, in whole or in part, within or outside that county or within or outside this State.

~~{5. As used in this section:~~

~~(a) "Major violation" means a violation which poses a threat to the safety or well being of others and which involves:~~

~~(1) The commission of any crime that is punishable as a gross misdemeanor or felony or any crime that involves a victim who is less than 18 years of age;~~

~~(2) The use of a deadly weapon, explosives or a firearm;~~

~~(3) The use or threatened use of force or violence against a person;~~

~~(4) Death or bodily injury of a person;~~

~~(5) An act of domestic violence;~~

~~(6) Harassment, stalking or threats of any kind; or~~

~~(7) The forcible or unlawful entry of a home, building, structure or vehicle in which a person is present.~~

~~(b) "Minor violation" means a violation that does not constitute a major violation.~~

Sec. 7. NRS 213.1245 is hereby amended to read as follows:

213.1245 1. Except as otherwise provided in subsection 3, if the Board releases on parole a prisoner convicted of an offense listed in NRS 179D.620, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee:

(a) Reside at a location only if ~~{it}~~ :

(1) *The residence* has been approved by the parole and probation officer assigned to the parolee . ~~{and keep}~~

(2) *The parolee keeps* the parole and probation officer *assigned to the parolee* informed of his current address . ~~{}~~

(b) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the parolee and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer . ~~{}~~

(c) Abide by any curfew imposed by the parole and probation officer assigned to the parolee . ~~{}~~

(d) Participate in and complete a program of professional counseling approved by the Division . ~~{}~~

(e) Submit to periodic tests, as requested by the parole and probation officer assigned to the parolee, to determine whether the parolee is using a controlled substance . ~~{}~~

(f) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the parolee . ~~{}~~

(g) Abstain from consuming, possessing or having under his control any alcohol . ~~{}~~

(h) Not have contact or communicate with a victim of the offense or a witness who testified against the parolee or solicit another person to engage in such contact or communication on behalf of the parolee, unless approved

by the parole and probation officer assigned to the parolee, and a written agreement is entered into and signed in the manner set forth in subsection 2 .
~~{-}~~

(i) Not use aliases or fictitious names . ~~{-}~~

(j) Not obtain a post office box unless the parolee receives permission from the parole and probation officer assigned to the parolee . ~~{-}~~

(k) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of an offense listed in NRS 179D.410 is present and permission has been obtained from the parole and probation officer assigned to the parolee in advance of each such contact . ~~{-}~~

(l) Unless approved by the parole and probation officer assigned to the parolee and by a psychiatrist, psychologist or counselor treating the parolee, if any, not ~~be~~ ~~in or near~~:

~~(1) A~~ knowingly be within 500 feet of any place , or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, ~~school or school grounds;~~

~~(2) A~~ an athletic field or a facility for youth sports, or a motion picture theater . ~~{-}~~ or

~~(3) A business that primarily has children as customers or conducts events that primarily children attend;~~ The provisions of this paragraph apply only to a parolee who has been assigned a Tier 3 level of notification.

(m) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication . ~~{-}~~

(n) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the parolee . ~~{-}~~

(o) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the parolee . ~~{-}~~

(p) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the parolee . ~~{-}~~ ~~and~~

(q) Inform the parole and probation officer assigned to the parolee if the parolee expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (h) of subsection 1 must state that the contact or communication is in the best

interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

- (a) The victim or the witness;
- (b) The parolee;
- (c) The parole and probation officer assigned to the parolee;
- (d) The psychiatrist, psychologist or counselor treating the parolee, victim or witness, if any; and
- (e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.

3. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

Sec. 8. NRS 213.1255 is hereby amended to read as follows:

213.1255 1. *Except as otherwise provided in subsection 4, in addition to any conditions of parole required to be imposed pursuant to NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection 6 against a child under the age of 14 years ~~for~~ and who has been assigned a Tier 3 level of notification, the Board shall require that the parolee:*

(a) Reside at a location only if the residence is not located within ~~(2,000)~~ 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.

(b) ~~Be~~ As deemed appropriate by the Chief, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

(c) Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

2. A parolee placed under the system of active electronic monitoring pursuant to subsection 1 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.

3. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an

electronic monitoring device placed on a parolee pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

4. *The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.*

5. In addition to any conditions of parole required to be imposed pursuant to *subsection 1* and NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection ~~{2}~~ 6 against a child under the age of 14 years, the Board shall, when appropriate:

(a) Require the parolee to participate in psychological counseling . ~~{;}~~

(b) Prohibit the parolee from being alone with a child unless another adult who has never been convicted of a sexual offense is present . ~~{; and~~

~~(c) Prohibit the parolee from being on or near the grounds of any place that is primarily designed for use by or for children, including, without limitation, a public or private school, a center or facility that provides day care services, a video arcade and an amusement park.~~

~~2-}~~ 6. The provisions of ~~{subsection}~~ subsections 1 and 5 apply to a prisoner who was convicted of:

(a) Sexual assault pursuant to paragraph (c) of subsection 3 of NRS 200.366;

(b) Abuse or neglect of a child pursuant to subparagraph (1) of paragraph (a) of subsection 1 or subparagraph (1) of paragraph (a) of subsection 2 of NRS 200.508;

(c) An offense punishable pursuant to subsection 2 of NRS 200.750;

(d) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 201.195;

(e) Lewdness with a child pursuant to NRS 201.230;

(f) Luring a child or mentally ill person pursuant to NRS 201.560, if punished as a felony; or

(g) Any combination of the crimes listed in paragraphs (a) to (f), inclusive.

Sec. 9. The amendatory provisions of:

1. Section 4 of this act apply to any person who is granted probation or a suspension of sentence before, on or after July 1, 2007.

2. Section 6 of this act apply to any person placed under a program of lifetime supervision before, on or after July 1, 2007; and

3. Sections 7 and 8 of this act apply to any person released on parole before, on or after July 1, 2007.

Sec. 10. This act becomes effective on July 1, 2007.

Senator Amodei moved the adoption of the amendment.

Remarks by Senators Amodei, Coffin, Titus and Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 242.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 166.

"SUMMARY—Enacts the Model Registered Agents Act. (BDR 7-460)"

"AN ACT relating to agents for service of process; enacting the Model Registered Agents Act; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain entities to appoint and maintain a resident agent who is located in this State and upon whom all legal process and any notice may be served. (NRS 14.020) This bill changes the term resident agent to registered agent and establishes two types of registered agent, which are called commercial registered agents and noncommercial registered agents.

Section 32 of this bill allows an individual or an entity to become listed as a commercial registered agent by filing with the Secretary of State a statement containing certain information. Under section 31 of this bill, when an entity files with the Secretary of State the document which creates the entity, the entity must include in that document the name of the entity's commercial registered agent, the name and address of the entity's noncommercial registered agent or the title of a position with the entity if service of process is to be sent to the person holding that position. In addition, section 31 removes the requirement to file a certificate of acceptance of appointment signed by the resident agent and provides that when an entity appoints a registered agent, the entity affirms that the registered agent has consented to serve as the registered agent of the entity. (NRS 14.020)

~~[Existing law allows a resident agent to resign by filing with the Secretary of State a signed statement for each entity to which the resignation will apply and paying a fee. (NRS 78.097, 80.070, 82.193, 84.120, 86.251, 87.500, 88.332, 88A.530) Section 29 of this bill eliminates the fee for a statement of resignation.]~~ Section 37 of this bill provides that any registered agent may resign from the representation of an entity by filing a statement of resignation for the entity ~~and paying the fee required by section 29 of this bill.~~ If a noncommercial registered agent wishes to resign from the representation of all entities, the agent must file a statement of resignation for each entity represented by the agent. However, under section 33 of this bill a commercial registered agent may resign from the representation of all entities by filing with the Secretary of State a termination statement and providing notice of the termination to each entity represented by the agent.

Existing law provides that if the name of a resident agent is changed because of certain actions, the resident agent must file a certificate with the

Secretary of State and pay a \$100 fee. (NRS 78.110, 80.070, 82.193, 86.235, 87.490, 88.331, 88A.540) Section 36 of this bill provides that if a commercial registered agent changes its name, address or type or jurisdiction of organization, the agent must file with the Secretary of State a statement of change. The filing of this statement changes the registered agent information for each entity represented by the agent. Section 35 of this bill provides that if a noncommercial registered agent changes its name or address, the agent must file with the Secretary of State a statement of change for each entity represented by the agent.

~~† Existing law requires certain entities to file an annual list with the Secretary of State. Under existing law, the annual list must state the name and address of certain governors of the entity. (NRS 78.150, 80.110, 82.193, 82.523, 84.110, 86.263, 86.5461, 87.510, 87.541, 88.395, 88.591, 88A.600, 88A.732, 89.250) This bill removes the requirement that the annual list state the address of certain governors of the entity.]~~

Existing law allows certain actions with respect to entities to be filed in the district court of the county in which the office of the entity's resident agent is located. (NRS 78.345, 78.630, 82.306, 82.471, 82.486, 92A.460, 92A.490) This bill provides that these actions must be brought in the district court of the county in which the entity's principal office is located or, if the entity's principal office is not located in this State, in the district court in Carson City.

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

Section 1. Title 7 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 43, inclusive, of this act.

Sec. 2. *This chapter may be cited as the Model Registered Agents Act.*

Sec. 3. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 28, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Appointment of agent" means a statement appointing an agent for service of process filed by a domestic entity that is not a filing entity or a nonqualified foreign entity under section 38 of this act.*

Sec. 5. *"Commercial registered agent" means an individual or a domestic or foreign entity listed under section 32 of this act.*

Sec. 6. *"Domestic entity" means an entity whose internal affairs are governed by the law of this State.*

Sec. 7. *"Entity" means a person that has a separate legal existence or has the power to acquire an interest in real property in its own name other than:*

1. *An individual;*
2. *A testamentary, inter vivos or charitable trust, with the exception of a business trust, statutory trust or similar trust;*

3. *An association or relationship that is not a partnership by reason of NRS 87.070, subsection 3 of NRS 87.4322 or similar provisions of the law of any other jurisdiction;*

4. *A decedent's estate; or*

5. *A public corporation, government or governmental subdivision, agency or instrumentality or a quasi-governmental instrumentality.*

Sec. 8. *"Filing entity" means an entity that is created by the filing of a public organic document.*

Sec. 9. *"Foreign entity" means an entity other than a domestic entity.*

Sec. 10. *"Foreign qualification document" means an application for a certificate of authority or other foreign qualification filing with the Secretary of State by a foreign entity.*

Sec. 11. *"Governor" means a person by or under whose authority the powers of an entity are exercised and under whose direction the business and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.*

Sec. 12. 1. *"Interest" means:*

(a) *A governance interest in an unincorporated entity;*

(b) *A transferable interest in an unincorporated entity; or*

(c) *A share or membership in a corporation.*

2. *As used in this section:*

(a) *"Governance interest" means the right under the organic law or organic rules of an entity, other than as a governor, agent, assignee or proxy, to:*

(1) *Receive or demand access to information concerning, or the books and records of, the entity;*

(2) *Vote for the election of the governors of the entity; or*

(3) *Receive notice of or vote on any or all issues involving the internal affairs of the entity.*

(b) *"Transferable interest" means the right under an entity's organic law to receive distributions from the entity.*

Sec. 13. *"Interest holder" means a direct holder of an interest.*

Sec. 14. *"Jurisdiction of organization," with respect to an entity, means the jurisdiction whose law includes the organic law of the entity.*

Sec. 15. *"Noncommercial registered agent" means a person that is not listed as a commercial registered agent under section 32 of this act and that is:*

1. *An individual or a domestic or foreign entity that serves in this State as the agent for service of process of an entity; or*

2. *The individual who holds the office or other position in an entity that is designated as the agent for service of process pursuant to subparagraph (2) of paragraph (b) of subsection 1 of section 31 of this act.*

Sec. 16. *"Nonqualified foreign entity" means a foreign entity that is not authorized to transact business in this State pursuant to a filing with the Secretary of State.*

Sec. 17. *"Nonresident LLP statement" means:*

1. *A certificate of registration of a domestic registered limited-liability partnership that does not have an office in this State; or*
2. *The foreign qualification filing of a foreign registered limited-liability partnership that does not have an office in this State.*

Sec. 18. *"Organic law" means the statutes, if any, other than this chapter, governing the internal affairs of an entity.*

Sec. 19. *"Organic rules" means the public organic document and private organic rules of an entity. As used in this section, "private organic rules" means the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all of its interest holders and are not part of its public organic document, if any.*

Sec. 20. *"Person" means an individual, corporation, estate, trust, partnership, limited-liability company, business or similar trust, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.*

Sec. 21. *"Public organic document" means the public record the filing of which creates an entity, and any amendment to or restatement of that record.*

Sec. 22. *"Qualified foreign entity" means a foreign entity that is authorized to transact business in this State pursuant to a filing with the Secretary of State.*

Sec. 23. *"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.*

Sec. 24. *"Registered agent" means a commercial registered agent or a noncommercial registered agent.*

Sec. 25. *"Registered agent filing" means:*

1. *The public organic document of a domestic filing entity;*
2. *A nonresident LLP statement;*
3. *A foreign qualification document;*
4. *An appointment of agent; or*
5. *Any other filing with the Secretary of State under an entity's organic law that must include the information required by subsection 1 of section 31 of this act.*

Sec. 26. *"Represented entity" means:*

1. *A domestic filing entity;*
2. *A domestic or qualified foreign limited-liability partnership that does not have an office in this State;*
3. *A qualified foreign entity;*
4. *A domestic or foreign unincorporated nonprofit association for which an appointment of agent has been filed;*
5. *A domestic entity that is not a filing entity for which an appointment of agent has been filed; or*

6. *A nonqualified foreign entity for which an appointment of agent has been filed.*

Sec. 27. "Sign" means, with present intent to authenticate or adopt a record:

1. *To execute or adopt a tangible symbol; or*
2. *To attach to or logically associate with the record an electronic sound, symbol or process.*

Sec. 28. "Type," with respect to an entity, means a generic form of entity:

1. *Recognized at common law; or*
2. *Organized under an organic law, whether or not some entities organized under that organic law are subject to provisions of that law that create different categories of the form of entity.*

Sec. 29. 1. *The Secretary of State shall collect the following fees when a filing is made under this chapter:*

- (a) *For a commercial registered agent listing statement, \$75.*
- (b) *For a commercial registered agent termination statement, \$100.*
- (c) *For a statement of change, \$60.*
- (d) *For a statement of resignation, ~~no fee~~ \$100 for the first entity listed on the statement of resignation and \$1 for each additional entity listed on the statement of resignation.*
- (e) *For a statement appointing an agent for service of process, \$60.*

2. *The Secretary of State shall collect the following fees for copying and certifying a copy of any document filed under this chapter:*

- (a) *For copying any document, \$2 per page.*
- (b) *For certifying a copy of any document, \$30.*

Sec. 29.5. 1. *Each record filed with the Secretary of State pursuant to this chapter must be on or accompanied by a form prescribed by the Secretary of State.*

2. *The Secretary of State may refuse to file a record which does not comply with subsection 1 or which does not contain all of the information required by statute for filing the record.*

3. *If the provisions on the form prescribed by the Secretary of State conflict with the provisions of any record that is submitted for filing with the form:*

(a) The provisions of the form control for all purposes with respect to information that is required by statute to appear in the record in order for the record to be filed; and

(b) Unless otherwise provided in the record, the provisions of the record control in every other situation.

4. *The Secretary of State may by regulation provide for the electronic filing of records with the Office of the Secretary of State.*

Sec. 30. *Whenever a provision of this chapter other than paragraph (d) of subsection 1 of section 37 of this act requires that a filing state an address, the filing must state:*

1. *An actual street address or rural route box number in this State; and*
2. *A mailing address in this State, if different from the address under subsection 1.*

Sec. 31. 1. *A registered agent filing must state:*

- (a) *The name of the represented entity's commercial registered agent; or*
- (b) *If the entity does not have a commercial registered agent:*

(1) *The name and address of the entity's noncommercial registered agent; or*

(2) *The title of an office or other position with the entity if service of process is to be sent to the person holding that office or position, and the address of the business office of that person.*

2. *The appointment of a registered agent pursuant to paragraph (a) or (b) of subsection 1 is an affirmation by the represented entity that the agent has consented to serve as such.*

Sec. 32. 1. *An individual or a domestic or foreign entity may become listed as a commercial registered agent by filing with the Secretary of State a commercial registered agent listing statement signed by or on behalf of the person which states:*

(a) *The name of the individual or the name, type and jurisdiction of organization of the entity;*

(b) *That the person is in the business of serving as a commercial registered agent in this State; and*

(c) *The address of a place of business of the person in this State to which service of process and other notice and documents being served on or sent to entities represented by it may be delivered.*

2. *If the name of a person filing a commercial registered agent listing statement is not distinguishable on the records of the Secretary of State from the name of another commercial registered agent listed under this section, the person must adopt a fictitious name that is distinguishable and use that name in its statement and when it does business in this State as a commercial registered agent. For the purposes of this subsection, a proposed name is not distinguishable from another name solely because one or the other contains distinctive lettering, a distinctive mark, a trademark or a trade name or any combination of these. The Secretary of State may adopt regulations that interpret the requirements of this subsection.*

3. *A commercial registered agent listing statement takes effect on filing.*

4. *The Secretary of State shall note the filing of the commercial registered agent listing statement in the index of filings maintained by the Secretary of State for each entity represented by the registered agent at the time of the filing. The statement has the effect of deleting the address of the registered agent from the registered agent filing of each of those entities.*

Sec. 33. 1. *A commercial registered agent may terminate its listing as a commercial registered agent by filing with the Secretary of State a commercial registered agent termination statement signed by or on behalf of the agent which states:*

(a) *The name of the agent as currently listed under section 32 of this act; and*

(b) *That the agent is no longer in the business of serving as a commercial registered agent in this State.*

2. *A commercial registered agent termination statement takes effect on the 31st day after the day on which it is filed.*

3. *The commercial registered agent shall promptly furnish each entity represented by it with notice in a record of the filing of the commercial registered agent termination statement.*

4. *When a commercial registered agent termination statement takes effect, the registered agent ceases to be an agent for service of process on each entity formerly represented by it. Termination of the listing of a commercial registered agent under this section does not affect any contractual rights a represented entity may have against the agent or that the agent may have against the entity.*

Sec. 34. 1. *A represented entity may change the information currently on file under subsection 1 of section 31 of this act by filing with the Secretary of State a statement of change signed on behalf of the entity which states:*

(a) *The name of the entity; and*

(b) *The information that is to be in effect as a result of the filing of the statement of change.*

2. *The interest holders or governors of a domestic entity need not approve the filing of:*

(a) *A statement of change under this section; or*

(b) *A similar filing changing the registered agent or registered office of the entity in any other jurisdiction.*

3. *The appointment of a registered agent pursuant to subsection 1 is an affirmation by the represented entity that the agent has consented to serve as such.*

4. *A statement of change filed under this section takes effect on filing.*

5. *Instead of using the procedures in this section, a represented entity may change the information currently on file under subsection 1 of section 31 of this act by amending its most recent registered agent filing in the manner provided by the laws of this State other than this chapter for amending that filing.*

Sec. 35. 1. *If a noncommercial registered agent changes its name or its address as currently in effect with respect to a represented entity pursuant to subsection 1 of section 31 of this act, the agent shall file with the Secretary of State, with respect to each entity represented by the agent, a statement of change signed by or on behalf of the agent which states:*

(a) *The name of the entity;*

(b) *The name and address of the agent as currently in effect with respect to the entity;*

(c) *If the name of the agent has changed, its new name; and*

(d) *If the address of the agent has changed, the new address.*

2. *A statement of change filed under this section takes effect on filing.*

3. *A noncommercial registered agent shall promptly furnish the represented entity with notice in a record of the filing of a statement of change and the changes made by the filing.*

Sec. 36. 1. *If a commercial registered agent changes its name, its address as currently listed under subsection 1 of section 32 of this act or its type or jurisdiction of organization, the agent shall file with the Secretary of State a statement of change signed by or on behalf of the agent which states:*

(a) The name of the agent as currently listed under subsection 1 of section 32 of this act;

(b) If the name of the agent has changed, its new name;

(c) If the address of the agent has changed, the new address; and

(d) If the type or jurisdiction of organization of the agent has changed, the new type or jurisdiction of organization.

2. *The filing of a statement of change under subsection 1 is effective to change the information regarding the commercial registered agent with respect to each entity represented by the agent.*

3. *A statement of change filed under this section takes effect on filing.*

4. *A commercial registered agent shall promptly furnish each entity represented by it with notice in a record of the filing of a statement of change relating to the name or address of the agent and the changes made by the filing.*

5. *If a commercial registered agent changes its address without filing a statement of change as required by this section, the Secretary of State may cancel the listing of the agent under section 32 of this act. A cancellation under this subsection has the same effect as a termination under section 33 of this act. Promptly after cancelling the listing of an agent, the Secretary of State shall serve notice in a record on the:*

(a) Governors of each entity represented by the agent, stating that the agent has ceased to be an agent for service of process on the entity and that, until the entity appoints a new registered agent, service of process may be made in the manner provided by NRS 14.030; and

(b) Agent, stating that the listing of the agent has been cancelled under this section.

Sec. 37. 1. *A registered agent may resign at any time with respect to a represented entity by filing with the Secretary of State a statement of resignation signed by or on behalf of the agent which states:*

(a) The name of the entity;

(b) The name of the agent;

(c) That the agent resigns from serving as agent for service of process for the entity; and

(d) The name and address of the person to which the agent will send the notice required by subsection 3.

2. *A statement of resignation takes effect on the earlier of the 31st day after the day on which it is filed or the appointment of a new registered agent for the represented entity.*

3. *The registered agent shall promptly furnish the represented entity with notice in a record of the date on which a statement of resignation was filed.*

4. *When a statement of resignation takes effect, the registered agent ceases to have responsibility for any matter tendered to it as agent for the represented entity. A resignation under this section does not affect any contractual rights the entity may have against the agent or that the agent may have against the entity.*

5. *A registered agent may resign with respect to a represented entity whether or not the entity is in good standing.*

Sec. 38. 1. *A domestic entity that is not a filing entity or a nonqualified foreign entity may file with the Secretary of State a statement appointing an agent for service of process signed on behalf of the entity which states:*

(a) The name, type and jurisdiction of organization of the entity; and

(b) The information required by subsection 1 of section 31.

2. *A statement appointing an agent for service of process takes effect on filing.*

3. *The appointment of a registered agent under this section does not qualify a nonqualified foreign entity to do business in this State and is not sufficient alone to create personal jurisdiction over the nonqualified foreign entity in this State.*

4. *A statement appointing an agent for service of process may not be rejected for filing because the name of the entity filing the statement is not distinguishable on the records of the Secretary of State from the name of another entity appearing in those records. The filing of a statement appointing an agent for service of process does not make the name of the entity filing the statement unavailable for use by another entity.*

5. *An entity that has filed a statement appointing an agent for service of process may cancel the statement by filing a statement of cancellation, which shall take effect upon filing, and must state the name of the entity and that the entity is cancelling its appointment of an agent for service of process in this State. A statement appointing an agent for service of process, which has not been cancelled earlier, is effective for a period of 5 years after the date of filing.*

6. *A statement appointing an agent for service of process for a nonqualified foreign entity terminates automatically on the date the entity becomes a qualified foreign entity.*

Sec. 39. *A registered agent is an agent of the represented entity authorized to receive service of any process, notice or demand required or permitted by law to be served on the entity.*

Sec. 40. *The only duties under this chapter of a registered agent who has complied with this chapter are:*

1. To forward to the represented entity at the address most recently supplied to the agent by the entity any process, notice or demand that is served on the agent;

2. To provide the notices required by this chapter to the entity at the address most recently supplied to the agent by the entity;

3. If the agent is a noncommercial registered agent, to keep current the information required by subsection 1 of section 31 of this act in the most recent registered agent filing for the entity; and

4. If the agent is a commercial registered agent, to keep current the information listed for it under subsection 1 of section 32 of this act.

Sec. 41. *The appointment or maintenance in this State of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this State. The address of the agent does not determine venue in an action or proceeding involving the entity.*

Sec. 42. *In applying and construing this chapter, consideration must be given to the need to promote consistency of the law with respect to its subject matter among states that enact it.*

Sec. 43. *This chapter modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq., but does not modify, limit or supersede Section 101(c) of that Act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 U.S.C. § 7003(b).*

Sec. 44. NRS 78.010 is hereby amended to read as follows:

78.010 1. As used in this chapter:

(a) "Approval" and "vote" as describing action by the directors or stockholders mean the vote of directors in person or by written consent or of stockholders in person, by proxy or by written consent.

(b) "Articles," "articles of incorporation" and "certificate of incorporation" are synonymous terms and, unless the context otherwise requires, include all certificates filed pursuant to NRS 78.030, 78.180, 78.185, 78.1955, 78.209, 78.380, 78.385, 78.390, 78.725 and 78.730 and any articles of merger, conversion, exchange or domestication filed pursuant to NRS 92A.200 to 92A.240, inclusive, or 92A.270. Unless the context otherwise requires, these terms include restated articles and certificates of incorporation.

(c) "Directors" and "trustees" are synonymous terms.

(d) "Principal office" means the office, in or out of this State, where the principal executive offices of a domestic or foreign corporation are located.

(e) "Receiver" includes receivers and trustees appointed by a court as provided in this chapter or in chapter 32 of NRS.

[(e)] (f) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

[(f)] (g) "Registered agent" has the meaning ascribed to it in section 24 of this act.

(h) "Registered office" means the office maintained at the street address of the [resident agent].

(g) "Resident agent" means the agent appointed by the corporation upon whom process or a notice or demand authorized by law to be served upon the corporation may be served.

(h)] *registered agent*.

(i) "Sign" means to affix a signature to a record.

[(i)] (j) "Signature" means a name, word, symbol or mark executed or otherwise adopted, or a record encrypted or similarly processed in whole or in part, by a person with the present intent to identify himself and adopt or accept a record. The term includes, without limitation, an electronic signature as defined in NRS 719.100.

[(j)] (k) "Stockholder of record" means a person whose name appears on the stock ledger of the corporation.

[(k)] (l) "Street address" of a [resident] *registered agent* means the actual physical location in this State at which a [resident] *registered agent* is available for service of process.

2. General terms and powers given in this chapter are not restricted by the use of special terms, or by any grant of special powers contained in this chapter.

Sec. 45. NRS 78.030 is hereby amended to read as follows:

78.030 1. One or more persons may establish a corporation for the transaction of any lawful business, or to promote or conduct any legitimate object or purpose, pursuant and subject to the requirements of this chapter, by [:

(a) Signing] *signing* and filing in the Office of the Secretary of State articles of incorporation . [; and

(b) Filing a certificate of acceptance of appointment, signed by the resident agent of the corporation, in the Office of the Secretary of State.]

2. The articles of incorporation must be as provided in NRS 78.035, and the Secretary of State shall require them to be in the form prescribed. If any articles are defective in this respect, the Secretary of State shall return them for correction.

Sec. 46. NRS 78.035 is hereby amended to read as follows:

78.035 The articles of incorporation must set forth:

1. The name of the corporation. A name appearing to be that of a natural person and containing a given name or initials must not be used as a corporate name except with an additional word or words such as "Incorporated," "Limited," "Inc.," "Ltd.," "Company," "Co.," "Corporation," "Corp.," or other word which identifies it as not being a natural person.

2. The [name of the person designated as the corporation's resident agent, the street address of the resident agent where process may be served upon the corporation, and the mailing address of the resident agent if different from the street address.] *information required by subsection 1 of section 31 of this act.*

3. The number of shares the corporation is authorized to issue and, if more than one class or series of stock is authorized, the classes, the series and the number of shares of each class or series which the corporation is authorized to issue, unless the articles authorize the board of directors to fix and determine in a resolution the classes, series and numbers of each class or series as provided in NRS 78.195 and 78.196.

4. The names and addresses, either residence or business, of the first board of directors or trustees, together with any desired provisions relative to the right to change the number of directors as provided in NRS 78.115.

5. The name and address, either residence or business, of each of the incorporators signing the articles of incorporation.

Sec. 47. NRS 78.050 is hereby amended to read as follows:

78.050 1. Upon the filing of the articles of incorporation [and the certificate of acceptance] pursuant to NRS 78.030 [,] and the payment of the filing fees, the Secretary of State shall issue to the corporation a certificate that the articles, containing the required statement of facts, have been filed. From the date the articles are filed, the corporation is a body corporate, by the name set forth in the articles of incorporation, subject to the forfeiture of its charter or dissolution as provided in this chapter.

2. Neither an incorporator nor a director designated in the articles of incorporation thereby becomes a subscriber or stockholder of the corporation.

3. The filing of the articles of incorporation does not, by itself, constitute commencement of business by the corporation.

Sec. 48. NRS 78.090 is hereby amended to read as follows:

78.090 1. [Except during any period of vacancy described in NRS 78.097, every] *Every* corporation must have a [resident] *registered* agent who resides or is located in this State. [Every resident agent must have a street address for the service of process, and may have a separate mailing address such as a post office box, which may be different from the street address. The street address of the resident agent is the registered office of the corporation in this State.]

2. If the [resident] *registered* agent is a bank or corporation, it may:

(a) Act as the fiscal or transfer agent of any state, municipality, body politic or corporation and in that capacity may receive and disburse money.

(b) Transfer, register and countersign certificates of stock, bonds or other evidences of indebtedness and act as agent of any corporation, foreign or domestic, for any purpose required by statute, or otherwise.

(c) Act as trustee under any mortgage or bond issued by any municipality, body politic or corporation, and accept and execute any other municipal or corporate trust not inconsistent with the laws of this State.

(d) Receive and manage any sinking fund of any corporation, upon such terms as may be agreed upon between the corporation and those dealing with it.

3. Every corporation organized pursuant to this chapter which fails or refuses to comply with the requirements of this section is subject to a fine of

not less than \$100 nor more than \$500, to be recovered with costs by the State, before any court of competent jurisdiction, by action at law prosecuted by the Attorney General or by the district attorney of the county in which the action or proceeding to recover the fine is prosecuted.

4. All legal process and any demand or notice authorized by law to be served upon a corporation may be served upon the [resident] *registered* agent of the corporation in the manner provided in subsection 2 of NRS 14.020. If any demand, notice or legal process, other than a summons and complaint, cannot be served upon the [resident] *registered* agent, it may be served in the manner provided in NRS 14.030. These manners and modes of service are in addition to any other service authorized by law.

Sec. 49. NRS 78.097 is hereby amended to read as follows:

78.097 1. [A resident agent who desires to resign shall file with the Secretary of State a signed statement, on a form provided by the Secretary of State, for each artificial person formed, organized, registered or qualified pursuant to the provisions of this title that he is unwilling to continue to act as the resident agent of the artificial person for the service of process. The fee for filing a statement of resignation is \$100 for the first artificial person for whom the resident agent is unwilling to continue to act as the agent and \$1 for each additional artificial person listed on the statement of resignation. A resignation is not effective until the signed statement is filed with the Secretary of State.

2. The statement of resignation may contain a statement of the affected corporation appointing a successor resident agent for that corporation. A certificate of acceptance signed by the new resident agent, stating the full name, complete street address and, if different from the street address, mailing address of the new resident agent, must accompany the statement appointing a successor resident agent.

3. Upon the filing of the statement of resignation with the Secretary of State the capacity of the resigning person as resident agent terminates. If the statement of resignation contains no statement by the corporation appointing a successor resident agent, the resigning resident agent shall immediately give written notice, by mail, to the corporation of the filing of the statement and its effect. The notice must be addressed to any officer of the corporation other than the resident agent.

4.] If a [resident agent dies, resigns or removes from the State,] *registered agent resigns pursuant to section 37 of this act or if a commercial registered agent terminates its listing as a commercial registered agent pursuant to section 33 of this act*, the corporation, [within 30 days thereafter,] *before the effective date of the resignation or termination*, shall file with the Secretary of State a [certificate of acceptance signed by the new resident agent. The certificate must set forth the full name and complete street address of the new resident agent for the service of process, and may have a separate mailing address, such as a post office box, which may be different from the street address.

5.] *statement of change of registered agent pursuant to section 34 of this act.*

2. A corporation that fails to [file a certificate of acceptance signed by the new resident agent within 30 days after the death, resignation or removal of its former resident agent] *comply with subsection 1* shall be deemed in default and is subject to the provisions of NRS 78.170 and 78.175.

3. *As used in this section, "commercial registered agent" has the meaning ascribed to it in section 5 of this act.*

Sec. 50. NRS 78.150 is hereby amended to read as follows:

78.150 1. A corporation organized pursuant to the laws of this State shall, on or before the last day of the first month after the filing of its articles of incorporation with the Secretary of State, file with the Secretary of State a list, on a form furnished by him, containing:

- (a) The name of the corporation;
- (b) The file number of the corporation, if known;
- (c) The names and titles of the president, secretary and treasurer, or the equivalent thereof, and of all the directors of the corporation;
- (d) The address, either residence or business, of each officer and director listed, following the name of the officer or director;
- (e) The [name and address of the lawfully designated resident agent of the corporation in this State;] information required by subsection 1 of section 31 of this act; and
- ~~(f) [The information required by subsection 1 of section 31 of this act; and~~
- ~~(e)]~~ The signature of an officer of the corporation certifying that the list is true, complete and accurate.

2. The corporation shall annually thereafter, on or before the last day of the month in which the anniversary date of incorporation occurs in each year, file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsection 1 or 2 must be accompanied by:

- (a) A declaration under penalty of perjury that the corporation:
 - (1) Has complied with the provisions of NRS 360.780; and
 - (2) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.
- (b) A statement as to whether the corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to this paragraph and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

4. Upon filing the list required by:

- (a) Subsection 1, the corporation shall pay to the Secretary of State a fee of \$125.

(b) Subsection 2, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

\$75,000 or less	\$125
Over \$75,000 and not over \$200,000	175
Over \$200,000 and not over \$500,000	275
Over \$500,000 and not over \$1,000,000	375
Over \$1,000,000:	
For the first \$1,000,000	375
For each additional \$500,000 or fraction thereof	275

↪ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is \$11,100.

5. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer 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 annual list required by subsection 2, cause to be mailed to each corporation which is required to comply with the provisions of NRS 78.150 to 78.185, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 4 and a reminder to file the annual list required by subsection 2. Failure of any corporation 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 in any respect 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 corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and must be accompanied by the appropriate fee as provided in subsection 4 for filing. A payment submitted pursuant to this subsection does not satisfy the requirements of subsection 2 for the year to which the due date is applicable.

Sec. 51. NRS 78.175 is hereby amended to read as follows:

78.175 1. The Secretary of State shall notify, by providing written notice to its [resident] *registered* agent, each corporation deemed in default pursuant to NRS 78.170. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the [resident] *registered* agent, may be provided electronically.

2. On the first day of the first anniversary of the month following the month in which the filing was required, the charter of the corporation is revoked and its right to transact business is forfeited.

3. The Secretary of State shall compile a complete list containing the names of all corporations whose right to transact business has been forfeited.

4. The Secretary of State shall forthwith notify, by providing written notice to its [resident] *registered* agent, each corporation specified in subsection 3 of the forfeiture of its charter. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the [resident] *registered* agent, may be provided electronically.

5. If the charter of a corporation is revoked and the right to transact business is forfeited as provided in subsection 2, all the property and assets of the defaulting domestic corporation must be held in trust by the directors of the corporation as for insolvent corporations, and the same proceedings may be had with respect thereto as are applicable to insolvent corporations. Any person interested may institute proceedings at any time after a forfeiture has been declared, but, if the Secretary of State reinstates the charter, the proceedings must at once be dismissed and all property restored to the officers of the corporation.

6. Where the assets are distributed, they must be applied in the following manner:

(a) To the payment of the filing fee, penalties incurred and costs due the State;

(b) To the payment of the creditors of the corporation; and

(c) Any balance remaining, to distribution among the stockholders.

Sec. 52. NRS 78.180 is hereby amended to read as follows:

78.180 1. Except as otherwise provided in subsections 3 and 4, 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; *and*

(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] 7 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. 53. NRS 78.275 is hereby amended to read as follows:

78.275 1. The directors may at such times and in such amount, as they may from time to time deem the interest of the corporation to require, levy and collect assessments upon the assessable stock of the corporation in the manner provided in this section.

2. Notice of each assessment must be given to the stockholders personally, or by publication once a week for at least 4 weeks, in some newspaper published in the county in which the [registered office or place of business] *principal office* of the corporation is located [,] *or, if the principal office of the corporation is not located in this State, in Carson City,* and in a newspaper published in the county wherein the property of the corporation is situated if in this State . [, and if no paper is published in either of those counties, then the newspaper published nearest to the registered office in the State.]

3. If , after the notice has been given, any stockholder defaults in the payment of the assessment upon the shares held by him, so many of those shares may be sold as will be necessary for the payment of the assessment upon all the shares held by him, together with all costs of advertising and expenses of sale. The sale of the shares must be made at the office of the corporation at public auction to the highest bidder, after a notice thereof published for 4 weeks as directed in this section, and a copy of the notice mailed to each delinquent stockholder if his address is known 4 weeks before the sale. At the sale the person who offers to pay the assessment so due, together with the expenses of advertising and sale, for the smallest number of shares, or portion of a share, as the case may be, shall be deemed the highest bidder.

Sec. 54. NRS 78.345 is hereby amended to read as follows:

78.345 1. If any corporation fails to elect directors within 18 months after the last election of directors required by NRS 78.330, the district court has jurisdiction in equity, upon application of any one or more stockholders holding stock entitling them to exercise at least 15 percent of the voting power, to order the election of directors in the manner required by NRS 78.330.

2. The application must be made by petition filed in the county where the [registered] *principal* office of the corporation is located *or, if the principal office is not located in this State, in Carson City,* and must be brought on behalf of all stockholders desiring to be joined therein. Such notice must be given to the corporation and the stockholders as the court may direct.

3. The directors elected pursuant to this section have the same rights, powers and duties and the same tenure of office as directors elected by the stockholders at the annual meeting held at the time prescribed therefor, next before the date of the election pursuant to this section, would have had.

Sec. 55. NRS 78.390 is hereby amended to read as follows:

78.390 1. [Every] *Except as otherwise provided in section 34 of this act, every* amendment to the articles of incorporation must be made in the following manner:

(a) The board of directors must adopt a resolution setting forth the amendment proposed and either call a special meeting of the stockholders entitled to vote on the amendment or direct that the proposed amendment be considered at the next annual meeting of the stockholders entitled to vote on the amendment.

(b) At the meeting, of which notice must be given to each stockholder entitled to vote pursuant to the provisions of this section, a vote of the stockholders entitled to vote in person or by proxy must be taken for and against the proposed amendment. If it appears upon the canvassing of the votes that stockholders holding shares in the corporation entitling them to exercise at least a majority of the voting power, or such greater proportion of the voting power as may be required in the case of a vote by classes or series, as provided in subsections 2 and 4, or as may be required by the provisions of the articles of incorporation, have voted in favor of the amendment, an officer of the corporation shall sign a certificate setting forth the amendment, or setting forth the articles of incorporation as amended, and the vote by which the amendment was adopted.

(c) The certificate so signed must be filed with the Secretary of State.

2. Except as otherwise provided in this subsection, if any proposed amendment would adversely alter or change any preference or any relative or other right given to any class or series of outstanding shares, then the amendment must be approved by the vote, in addition to the affirmative vote otherwise required, of the holders of shares representing a majority of the voting power of each class or series adversely affected by the amendment regardless of limitations or restrictions on the voting power thereof. The amendment does not have to be approved by the vote of the holders of shares representing a majority of the voting power of each class or series whose preference or rights are adversely affected by the amendment if the articles of incorporation specifically deny the right to vote on such an amendment.

3. Provision may be made in the articles of incorporation requiring, in the case of any specified amendments, a larger proportion of the voting power of stockholders than that required by this section.

4. Different series of the same class of shares do not constitute different classes of shares for the purpose of voting by classes except when the series is adversely affected by an amendment in a different manner than other series of the same class.

5. The resolution of the stockholders approving the proposed amendment may provide that at any time before the effective date of the amendment, notwithstanding approval of the proposed amendment by the stockholders, the board of directors may, by resolution, abandon the proposed amendment without further action by the stockholders.

6. A certificate filed pursuant to subsection 1 is effective upon filing the certificate with the Secretary of State or upon a later date specified in the certificate, which must not be more than 90 days after the certificate is filed.

7. If a certificate filed pursuant to subsection 1 specifies an effective date and if the resolution of the stockholders approving the proposed amendment provides that the board of directors may abandon the proposed amendment pursuant to subsection 5, the board of directors may terminate the effectiveness of the certificate by resolution and by filing a certificate of termination with the Secretary of State that:

- (a) Is filed before the effective date specified in the certificate filed pursuant to subsection 1;
- (b) Identifies the certificate being terminated;
- (c) States that, pursuant to the resolution of the stockholders, the board of directors is authorized to terminate the effectiveness of the certificate;
- (d) States that the effectiveness of the certificate has been terminated;
- (e) Is signed by an officer of the corporation; and
- (f) Is accompanied by a filing fee of \$175.

Sec. 56. NRS 78.403 is hereby amended to read as follows:

78.403 1. A corporation may restate, or amend and restate, in a single certificate the entire text of its articles of incorporation as amended by filing with the Secretary of State a certificate in the manner provided in this section. If the certificate alters or amends the articles in any manner, it must comply with the provisions of NRS 78.380, 78.385 and 78.390, as applicable.

2. If the certificate does not alter or amend the articles, it must be signed by an officer of the corporation and state that he has been authorized to sign the certificate by resolution of the board of directors adopted on the date stated, and that the certificate correctly sets forth the text of the articles of incorporation as amended to the date of the certificate.

3. The following may be omitted from the restated articles:

- (a) The names, addresses, signatures and acknowledgments of the incorporators;
- (b) The names and addresses of the members of the past and present boards of directors; and
- (c) The [name and address of the resident agent.] *information required by subsection 1 of section 31 of this act.*

4. Whenever a corporation is required to file a certified copy of its articles, in lieu thereof it may file a certified copy of the most recent certificate restating its articles as amended, subject to the provisions of subsection 2, together with certified copies of all certificates of amendment

filed subsequent to the restated articles and certified copies of all certificates supplementary to the original articles.

5. A certificate filed pursuant to this section is effective upon filing the certificate with the Secretary of State or upon a later date specified in the certificate, which must not be more than 90 days after the certificate is filed.

Sec. 57. NRS 78.630 is hereby amended to read as follows:

78.630 1. Whenever any corporation becomes insolvent or suspends its ordinary business for want of money to carry on the business, or if its business has been and is being conducted at a great loss and greatly prejudicial to the interest of its creditors or stockholders, any creditors holding 10 percent of the outstanding indebtedness, or stockholders owning 10 percent of the outstanding stock entitled to vote, may, by petition setting forth the facts and circumstances of the case, apply to the district court of the county in which the [registered] *principal* office of the corporation is located *or, if the principal office is not located in this State, to the district court in Carson City* for a writ of injunction and the appointment of a receiver or receivers or trustee or trustees.

2. The court, being satisfied by affidavit or otherwise of the sufficiency of the application and of the truth of the allegations contained in the petition and upon hearing after such notice as the court by order may direct, shall proceed in a summary way to hear the affidavits, proofs and allegations which may be offered in behalf of the parties.

3. If upon such inquiry it appears to the court that the corporation has become insolvent and is not about to resume its business in a short time thereafter, or that its business has been and is being conducted at a great loss and greatly prejudicial to the interests of its creditors or stockholders, so that its business cannot be conducted with safety to the public, it may issue an injunction to restrain the corporation and its officers and agents from exercising any of its privileges or franchises and from collecting or receiving any debts or paying out, selling, assigning or transferring any of its estate, money, lands, tenements or effects, except to a receiver appointed by the court, until the court otherwise orders.

Sec. 58. NRS 78.730 is hereby amended to read as follows:

78.730 1. 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.] *information required by subsection 1 of section 31 of this act.*

(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. 59. NRS 78.750 is hereby amended to read as follows:

78.750 1. In any action commenced against any corporation in any court of this State, service of process may be made in the manner provided by law and rule of court for the service of civil process.

2. Service of process on a corporation whose charter has been revoked or which has been continued as a body corporate pursuant to NRS 78.585 may be made by mailing copies of the process and any associated records by certified mail, with return receipt requested, to:

(a) The [resident] *registered* agent of the corporation, if there is one; and

(b) Each officer and director of the corporation as named in the list last filed with the Secretary of State before the dissolution or expiration of the corporation or the forfeiture of its charter.

➡ The manner of serving process described in this subsection does not affect the validity of any other service authorized by law.

Sec. 60. NRS 78.785 is hereby amended to read as follows:

78.785 1. [The fee for filing a certificate of change of location of a corporation's registered office and resident agent, or a new designation of resident agent, is \$60.

2.] The fee for certifying a copy of articles of incorporation is \$30.

[3.] 2. The fee for certifying a copy of an amendment to articles of incorporation, or to a copy of the articles as amended, is \$30.

[4.] 3. The fee for certifying an authorized printed copy of the general corporation law as compiled by the Secretary of State is \$30.

[5.] 4. The fee for reserving a corporate name is \$25.

[6.] 5. The fee for signing a certificate of corporate existence which does not list the previous records relating to the corporation, or a certificate of change in a corporate name, is \$50.

[7.] 6. The fee for signing a certificate of corporate existence which lists the previous records relating to the corporation is \$50.

[8.] 7. The fee for signing, certifying or filing any certificate or record not provided for in NRS 78.760 to 78.785, inclusive, is \$50.

[9.] 8. The fee for copies provided by the Office of the Secretary of State is \$2 per page.

[10.] 9. The fees for filing articles of incorporation, articles of merger, or certificates of amendment increasing the basic surplus of a mutual or reciprocal insurer must be computed pursuant to NRS 78.760, 78.765 and 92A.210, on the basis of the amount of basic surplus of the insurer.

[11.] 10. The fee for examining and provisionally approving any record at any time before the record is presented for filing is \$125.

Sec. 61. NRS 78.795 is hereby amended to read as follows:

78.795 1. Any natural person or corporation residing or located in this State may register for that calendar year his willingness to serve as the [resident] *registered* agent of a domestic or foreign corporation, limited-liability company or limited partnership with the Secretary of State. The registration must state the full, legal name of the person or corporation willing to serve as the [resident] *registered* agent and be accompanied by a fee of \$500 per office location of the [resident] *registered* agent.

2. The Secretary of State shall maintain a list of those persons who are registered pursuant to subsection 1 and make the list available to persons seeking to do business in this State.

3. The Secretary of State may amend any information provided in the list if a person who is included in the list:

(a) Requests the amendment; and

(b) Pays a fee of \$50.

4. The Secretary of State may adopt regulations prescribing the content, maintenance and presentation of the list.

Sec. 62. NRS 80.004 is hereby amended to read as follows:

80.004 "Street address" of a [resident] *registered* agent means the actual physical location in this State at which a [resident] *registered* agent is available for service of process.

Sec. 63. NRS 80.010 is hereby amended to read as follows:

80.010 1. Before commencing or doing any business in this State, each corporation organized pursuant to the laws of another state, territory, the District of Columbia, a possession of the United States or a foreign country that enters this State to do business must:

(a) File in the Office of the Secretary of State of this State:

(1) A certificate of corporate existence issued not more than 90 days before the date of filing by an authorized officer of the jurisdiction of its incorporation setting forth the filing of records and instruments related to the articles of incorporation, or the governmental acts or other instrument or authority by which the corporation was created. If the certificate is in a language other than English, a translation, together with the oath of the translator and his attestation of its accuracy, must be attached to the certificate.

(2) [A certificate of acceptance of appointment signed by its resident agent, who must be a resident or located in this State. The certificate must set forth the name of the resident agent, his street address for the service of process, and his mailing address if different from his street address.] *The information required by subsection 1 of section 31 of this act.* The street address of the [resident] *registered* agent is the registered office of the corporation in this State.

(3) A statement signed by an officer of the corporation setting forth:

(I) A general description of the purposes of the corporation; and

(II) The authorized stock of the corporation and the number and par value of shares having par value and the number of shares having no par value.

(b) Lodge in the Office of the Secretary of State a copy of the record most recently filed by the corporation in the jurisdiction of its incorporation setting forth the authorized stock of the corporation, the number of par-value shares and their par value, and the number of no-par-value shares.

2. The Secretary of State shall not file the records required by subsection 1 for any foreign corporation whose name is not distinguishable on the records of the Secretary of State from the names of all other artificial persons formed, organized, registered or qualified pursuant to the provisions of this title that are on file in the Office of the Secretary of State and all names that are reserved in the Office of the Secretary of State pursuant to the provisions of this title, unless the written, acknowledged consent of the holder of the name on file or reserved name to use the same name or the requested similar name accompanies the articles of incorporation.

3. For the purposes of this section and NRS 80.012, a proposed name is not distinguishable from a name on file or reserved solely because one or the

other names contains distinctive lettering, a distinctive mark, a trademark or trade name, or any combination thereof.

4. The name of a foreign corporation whose charter has been revoked, which has merged and is not the surviving entity or whose existence has otherwise terminated is available for use by any other artificial person.

5. The Secretary of State shall not accept for filing the records required by subsection 1 or NRS 80.110 for any foreign corporation if the name of the corporation contains the words "engineer," "engineered," "engineering," "professional engineer," "registered engineer" or "licensed engineer" unless the State Board of Professional Engineers and Land Surveyors certifies that:

(a) The principals of the corporation are licensed to practice engineering pursuant to the laws of this State; or

(b) The corporation is exempt from the prohibitions of NRS 625.520.

6. The Secretary of State shall not accept for filing the records required by subsection 1 or NRS 80.110 for any foreign corporation if it appears from the records that the business to be carried on by the corporation is subject to supervision by the Commissioner of Financial Institutions, unless the Commissioner certifies that:

(a) The corporation has obtained the authority required to do business in this State; or

(b) The corporation is not subject to or is exempt from the requirements for obtaining such authority.

7. The Secretary of State shall not accept for filing the records required by subsection 1 or NRS 80.110 for any foreign corporation if the name of the corporation contains the word "accountant," "accounting," "accountancy," "auditor" or "auditing" unless the Nevada State Board of Accountancy certifies that the foreign corporation:

(a) Is registered pursuant to the provisions of chapter 628 of NRS; or

(b) Has filed with the Nevada State Board of Accountancy under penalty of perjury a written statement that the foreign corporation is not engaged in the practice of accounting and is not offering to practice accounting in this State.

8. The Secretary of State may adopt regulations that interpret the requirements of this section.

Sec. 64. NRS 80.060 is hereby amended to read as follows:

80.060 Every foreign corporation owning property or doing business in this State shall appoint and keep in this State a [resident] *registered* agent as provided in NRS 14.020.

Sec. 65. NRS 80.070 is hereby amended to read as follows:

80.070 1. [A foreign corporation may change its resident agent by filing with the Secretary of State:

(a) A certificate of change of resident agent, signed by an officer of the corporation, setting forth:

(1) The name of the corporation;

(2) The name and street address of the present resident agent; and

(3) The name and street address of the new resident agent; and
(b) A certificate of acceptance signed by the new resident agent, which must be a part of or attached to the certificate of change of resident agent.

2. If the name of a resident agent is changed as a result of a merger, conversion, exchange, sale, reorganization or amendment, the resident agent shall:

(a) File with the Secretary of State a certificate of name change of resident agent that includes:

(1) The current name of the resident agent as filed with the Secretary of State;

(2) The new name of the resident agent; and

(3) The name and file number of each artificial person formed, organized, registered or qualified pursuant to the provisions of this title that the resident agent represents; and

(b) Pay to the Secretary of State a filing fee of \$100.

3. A change authorized by subsection 1 or 2 becomes effective upon the filing of the proper certificate of change.

4. A resident agent who desires to resign shall:

(a) File with the Secretary of State a signed statement in the manner provided pursuant to subsection 1 of NRS 78.097 that he is unwilling to continue to act as the resident agent of the corporation for the service of process; and

(b) Pay to the Secretary of State the filing fee set forth in subsection 1 of NRS 78.097.

↪ A resignation is not effective until the signed statement is filed with the Secretary of State.

5. Upon the filing of the statement of resignation with the Secretary of State, the capacity of the resigning person as resident agent terminates. If the statement of resignation is not accompanied by a statement of the corporation appointing a successor resident agent, the resigning resident agent shall give written notice, by mail, to the corporation, of the filing of the statement and its effect. The notice must be addressed to any officer of the corporation other than the resident agent.

6.] If a [resident agent dies, resigns or moves from the State,] *registered agent resigns pursuant to section 37 of this act or if a commercial registered agent terminates its listing as a commercial registered agent pursuant to section 33 of this act*, the corporation, [within 30 days thereafter,] *before the effective date of the resignation or termination*, shall file with the Secretary of State a [certificate of acceptance signed by the new resident agent. The certificate must set forth the name of the new resident agent, his street address for the service of process, and his mailing address if different from his street address.

7.] *statement of change of registered agent pursuant to section 34 of this act.*

2. A corporation that fails to [file a certificate of acceptance signed by a new resident agent within 30 days after the death, resignation or removal of its resident agent] *comply with subsection 1* shall be deemed in default and is subject to the provisions of NRS 80.150 and 80.160.

3. *As used in this section, "commercial registered agent" has the meaning ascribed to it in section 5 of this act.*

Sec. 66. NRS 80.090 is hereby amended to read as follows:

80.090 If a foreign corporation doing business in this State maintains and keeps in the State a [resident] *registered agent* as provided by NRS 80.060 and files or has microfilmed the papers, records and instruments required by NRS 80.010 to 80.040, inclusive, the foreign corporation is entitled to the benefit of the laws of this State limiting the time for the commencement of civil actions.

Sec. 67. NRS 80.110 is hereby amended to read as follows:

80.110 1. Each foreign corporation doing business in this State shall, on or before the last day of the first month after the filing of its certificate of corporate existence with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The names and addresses, either residence or business, of its president, secretary and treasurer, or the equivalent thereof, and all of its directors;

(b) The [name and street address of the lawfully designated resident agent of the corporation in this State;] *information required by subsection 1 of section 31 of this act*; and

(c) The signature of an officer of the corporation.

↪ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the foreign corporation has complied with the provisions of NRS 360.780 and which acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State. Each list filed pursuant to this subsection must also be accompanied by a statement as to whether the corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to this subsection and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

2. Upon filing:

(a) The initial list required by subsection 1, the corporation shall pay to the Secretary of State a fee of \$125.

(b) Each annual list required by subsection 1, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

\$75,000 or less	\$125
Over \$75,000 and not over \$200,000	175
Over \$200,000 and not over \$500,000	275
Over \$500,000 and not over \$1,000,000	375
Over \$1,000,000:	
For the first \$1,000,000	375
For each additional \$500,000 or fraction thereof	275

➔ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is \$11,100.

3. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of \$75 to file the resignation.

4. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each corporation which is required to comply with the provisions of NRS 80.110 to 80.175, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any corporation to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 80.110 to 80.175, inclusive.

5. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 68. NRS 80.160 is hereby amended to read as follows:

80.160 1. The Secretary of State shall notify, by providing written notice to its [resident] *registered* agent, each corporation deemed in default pursuant to NRS 80.150. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the [resident] *registered* agent, may be provided electronically.

2. Immediately after the last day of the month in which the anniversary date of incorporation occurs, the Secretary of State shall compile a complete list containing the names of all corporations whose right to transact business has been forfeited.

3. The Secretary of State shall notify, by providing written notice to its [resident] *registered* agent, each corporation specified in subsection 2 of the forfeiture of its right to do business. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the [resident] *registered* agent, may be provided electronically.

Sec. 69. NRS 80.170 is hereby amended to read as follows:

80.170 1. Except as otherwise provided in subsections 3 and 4, 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; *and*

(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]~~ 7 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. 70. NRS 81.0025 is hereby amended to read as follows:

81.0025 "Street address" of a ~~[resident]~~ *registered* agent means the actual physical location in this State at which a ~~[resident]~~ *registered* agent is available for service of process.

Sec. 71. NRS 81.040 is hereby amended to read as follows:

81.040 Each corporation formed under NRS 81.010 to 81.160, inclusive, must prepare and file articles of incorporation in writing, setting forth:

1. The name of the corporation.

2. The purpose for which it is formed.

3. The ~~[name of the person designated as the resident agent, the street address for the service of process, and the mailing address if different from the street address.]~~ *information required by subsection 1 of section 31 of this act.*

4. The term for which it is to exist, which may be perpetual.

5. If formed with stock, the amount of its stock and the number and par value, if any, and the shares into which it is divided, and the amount of common and of preferred stock that may be issued with the preferences, privileges, voting rights, restrictions and qualifications pertaining thereto.

6. The names and addresses of those selected to act as directors, not less than three, for the first year or until their successors have been elected and have accepted office.

7. Whether the property rights and interest of each member are equal or unequal, and if unequal the articles must set forth a general rule applicable to all members by which the property rights and interests of each member may be determined, but the corporation may admit new members who may vote and share in the property of the corporation with the old members, in accordance with the general rule.

8. The name and mailing or street address, either residence or business, of each of the incorporators signing the articles of incorporation.

Sec. 72. NRS 81.060 is hereby amended to read as follows:

81.060 1. The articles of incorporation must be:

(a) Signed by three or more of the original members, a majority of whom must be residents of this State.

(b) Filed ~~[, together with a certificate of acceptance of appointment signed by the resident agent of the corporation,]~~ in the Office of the Secretary of State in all respects in the same manner as other articles of incorporation are filed.

2. If a corporation formed under NRS 81.010 to 81.160, inclusive, is authorized to issue stock, there must be paid to the Secretary of State for filing the articles of incorporation the fee applicable to the amount of authorized stock of the corporation which the Secretary of State is required by law to collect upon the filing of articles of incorporation which authorize the issuance of stock.

3. The Secretary of State shall issue to the corporation over the Great Seal of the State a certificate that a copy of the articles containing the required statements of facts has been filed in his office.

4. Upon the issuance of the certificate by the Secretary of State, the persons signing the articles and their associates and successors are a body politic and corporate. When so filed, the articles of incorporation or certified copies thereof must be received in all the courts of this State, and other places, as prima facie evidence of the facts contained therein.

Sec. 73. NRS 81.200 is hereby amended to read as follows:

81.200 1. Each association formed under NRS 81.170 to 81.270, inclusive, shall prepare articles of association in writing, setting forth:

(a) The name of the association.

(b) The purpose for which it is formed.

(c) The ~~[name of the person designated as the resident agent, the street address for service of process, and the mailing address if different from the street address,]~~ *information required by subsection 1 of section 31 of this act.*

(d) The term for which it is to exist, which may be perpetual.

(e) The names and addresses, either residence or business, of the directors selected for the first year.

(f) The amount which each member is to pay upon admission as a fee for membership, and that each member signing the articles has actually paid the fee.

(g) That the interest and right of each member therein is to be equal.

(h) The name and address, either residence or business, of each of the persons signing the articles of association.

2. The articles of association must be signed by the original associates or members.

3. The articles so signed must be filed ~~[, together with a certificate of acceptance of appointment signed by the resident agent for the association,]~~ in the Office of the Secretary of State. From the time of the filing in the Office of the Secretary of State, the association may exercise all the powers for which it was formed.

Sec. 74. NRS 81.440 is hereby amended to read as follows:

81.440 Each corporation formed under NRS 81.410 to 81.540, inclusive, shall prepare and file articles of incorporation in writing, setting forth:

1. The name of the corporation.

2. The purpose for which it is formed.

3. The ~~[name of the person designated as the resident agent, the street address for service of process, and the mailing address if different from the street address.]~~ *information required by subsection 1 of section 31 of this act.*

4. The term for which it is to exist, which may be perpetual.

5. The number of directors thereof, which must be not less than three and which may be any number in excess thereof, and the names and residences of those selected for the first year and until their successors have been elected and have accepted office.

6. Whether the voting power and the property rights and interest of each member are equal or unequal, and if unequal the articles must set forth a general rule applicable to all members by which the voting power and the property rights and interests of each member may be determined, but the corporation may admit new members who may vote and share in the property of the corporation with the old members, in accordance with the general rule.

7. The name and mailing or street address, either residence or business, of each of the incorporators signing the articles of incorporation.

Sec. 75. NRS 81.450 is hereby amended to read as follows:

81.450 1. The articles of incorporation must be:

(a) Signed by three or more of the original members, a majority of whom must be residents of this State.

(b) Filed ~~[, together with a certificate of acceptance of appointment signed by the resident agent for the corporation,]~~ in the Office of the Secretary of State in all respects in the same manner as other articles of incorporation are filed.

2. The Secretary of State shall issue to the corporation over the Great Seal of the State a certificate that a copy of the articles containing the required statements of facts has been filed in his office.

3. Upon the issuance of the certificate by the Secretary of State, the persons signing the articles and their associates and successors are a body politic and corporate. When so filed, the articles of incorporation or certified copies thereof must be received in all the courts of this State, and other places, as prima facie evidence of the facts contained therein.

Sec. 76. Chapter 82 of NRS is hereby amended by adding thereto a new section to read as follows:

"Principal office" has the meaning ascribed to it in NRS 78.010.

Sec. 77. NRS 82.006 is hereby amended to read as follows:

82.006 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 82.011 to 82.044, inclusive, *and section 76 of this act* have the meanings ascribed to them in those sections.

Sec. 78. NRS 82.041 is hereby amended to read as follows:

82.041 "Registered office" of a corporation means the office maintained at the street address of its ~~resident~~ registered agent.

Sec. 79. NRS 82.044 is hereby amended to read as follows:

82.044 "Street address" of a ~~resident~~ registered agent means the actual physical location in this State at which a ~~resident~~ registered agent is available for service of process.

Sec. 80. NRS 82.063 is hereby amended to read as follows:

82.063 1. The board of directors of a corporation without shares of stock which was organized before October 1, 1991, pursuant to any provision of chapter 81 of NRS or a predecessor statute and whose permissible term of existence as stated in the articles of incorporation has expired, may, within 10 years after the date of the expiration of its existence, elect to revive its charter and accept this chapter by adopting a resolution reviving the expired charter and adopting new articles of incorporation conforming to this chapter and any other statutes pursuant to which the corporation may have been organized. The new articles of incorporation need not contain the names, addresses, signatures or acknowledgments of the incorporators.

2. A certificate of election to accept this chapter pursuant to this section must be signed by an officer of the corporation and must set forth:

(a) The name of the corporation.

(b) A statement by the corporation that it has elected to accept this chapter and adopt new articles of incorporation conforming to the provisions of this chapter and any other statutes pursuant to which the corporation may have been organized.

(c) A statement by the corporation that since the expiration of its charter it has remained organized and continued to carry on the activities for which it was formed and authorized by its original articles of incorporation and amendments thereto, and desires to continue through revival its existence pursuant to and subject to the provisions of this chapter.

(d) A statement that the attached copy of the articles of incorporation of the corporation are the new articles of incorporation of the corporation.

(e) A statement setting forth the date of the meeting of the board of directors at which the election to accept and adopt was made, that a quorum was present at the meeting and that the acceptance and adoption were authorized by a majority vote of the directors present at the meeting.

(f) The information required by subsection 1 of section 31 of this act.

3. The certificate so signed ~~{and a certificate of acceptance of appointment signed by the resident agent of the corporation}~~ must be filed in the Office of the Secretary of State.

4. The new articles of incorporation become effective on the date of filing the certificate. The corporation's existence continues from the date of expiration of the original term, with all the corporation's rights, franchises, privileges and immunities and subject to all its existing and preexisting debts, duties and liabilities.

Sec. 81. NRS 82.081 is hereby amended to read as follows:

82.081 1. One or more natural persons may associate to establish a corporation no part of the income or profit of which is distributable to its members, directors or officers, except as otherwise provided in this chapter, for the transaction of any lawful business, or to promote or conduct any legitimate object or purpose, pursuant and subject to the requirements of this chapter, by ~~[-~~

~~(a) Signing} signing and filing in the Office of the Secretary of State articles of incorporation . [- and~~

~~(b) Filing a certificate of acceptance of appointment, signed by the resident agent of the corporation, in the Office of the Secretary of State.]~~

2. The Secretary of State shall require articles of incorporation to be in the form prescribed by NRS 82.086. If any articles are defective in this respect, the Secretary of State shall return them for correction.

Sec. 82. NRS 82.086 is hereby amended to read as follows:

82.086 The articles of incorporation must set forth:

1. The name of the corporation. A name appearing to be that of a natural person and containing a given name or initials must not be used as a corporate name except with an additional word or words such as "Incorporated," "Inc.," "Limited," "Ltd.," "Company," "Co.," "Corporation," "Corp.," or other word which identifies it as not being a natural person.

2. The ~~{name of the person designated as the corporation's resident agent, his street address where he maintains an office for service of process, and his mailing address if different from the street address.}~~ *information required by subsection 1 of section 31 of this act.*

3. That the corporation is a nonprofit corporation.

4. The nature of the business, or objects or purposes proposed to be transacted, promoted or carried on by the corporation. It is sufficient to state, either alone or with other purposes, that the corporation may engage in any lawful activity, subject to expressed limitations, if any. Such a statement makes all lawful activities within the objects or purposes of the corporation.

5. The names and mailing or street addresses, residence or business, of the first board of directors or trustees, together with any desired provisions relative to the right to change the number of directors.

6. The names and mailing or street address, residence or business, of each of the incorporators signing the articles of incorporation.

Sec. 83. NRS 82.111 is hereby amended to read as follows:

82.111 1. Upon the filing of the articles of incorporation ~~[and the certificate of acceptance]~~ pursuant to NRS 82.081 ~~[,]~~ and the payment of the filing fees, the Secretary of State shall issue to the corporation a certificate that the articles, containing the required statement of facts, have been filed in his office. Upon the filing of the articles, the corporation is a body corporate, by the name set forth in the articles, subject to the forfeiture of its charter and dissolution as provided in this chapter.

2. The filing of the articles does not, by itself, constitute commencement of business by the corporation.

Sec. 84. NRS 82.193 is hereby amended to read as follows:

82.193 1. A corporation shall have a ~~[resident]~~ *registered* agent in the manner provided in NRS 78.090 ~~[, 78.095, 78.097 and 78.110.]~~ and 78.097. The ~~[resident]~~ *registered* agent and the corporation shall comply with the provisions of those sections.

2. Upon notification from the Administrator of the Real Estate Division of the Department of Business and Industry that a corporation which is a unit-owners' association as defined in NRS 116.011 has failed to register pursuant to NRS 116.31158 or failed to pay the fees pursuant to NRS 116.31155, the Secretary of State shall deem the corporation to be in default. If, after the corporation is deemed to be in default, the Administrator notifies the Secretary of State that the corporation has registered pursuant to NRS 116.31158 and paid the fees pursuant to NRS 116.31155, the Secretary of State shall reinstate the corporation if the corporation complies with the requirements for reinstatement as provided in this section and NRS 78.180 and 78.185.

3. A corporation is subject to the provisions of NRS 78.150 to 78.185, inclusive, except that:

- (a) The fee for filing a list is \$25;
- (b) The penalty added for default is \$50; and
- (c) The fee for reinstatement is \$100.

Sec. 85. NRS 82.306 is hereby amended to read as follows:

82.306 1. If any corporation fails to elect directors within 18 months after the last election of directors required by NRS 82.286, the district court has jurisdiction in equity, upon application of any one or more of the members of the corporation representing 10 percent of the voting power of the members entitled to vote for the election of directors or for the election of delegates who are entitled to elect directors, or 50 members, whichever is less, to order the election of directors as required by NRS 82.286.

2. The application must be made by petition filed in the county where the ~~registered~~ principal office of the corporation is located *or, if the principal office is not located in this State, in Carson City*, and must be brought on behalf of all members desiring to be joined therein. Such notice must be given to the corporation and the members as the court may direct.

Sec. 86. NRS 82.356 is hereby amended to read as follows:

82.356 1. ~~Each~~ *Except as otherwise provided in section 34 of this act*, each amendment adopted pursuant to the provisions of NRS 82.351 must be made in the following manner:

(a) The board of directors must adopt a resolution setting forth the amendment proposed, approve it and, if the corporation has members entitled to vote on an amendment to the articles, call a meeting, either annual or special, of the members. The amendment must also be approved by each public official or other person whose approval of an amendment of articles is required by the articles.

(b) At the meeting of members, of which notice must be given to each member entitled to vote pursuant to the provisions of this section, a vote of the members entitled to vote in person or by proxy must be taken for and against the proposed amendment. A majority of a quorum of the voting power of the members or such greater proportion of the voting power of members as may be required in the case of a vote by classes, as provided in subsection 3, or as may be required by the articles, must vote in favor of the amendment.

(c) Upon approval of the amendment by the directors, or if the corporation has members entitled to vote on an amendment to the articles, by both the directors and those members, and such other persons or public officers, if any, as are required to do so by the articles, an officer of the corporation must sign a certificate setting forth the amendment, or setting forth the articles as amended, that the public officers or other persons, if any, required by the articles have approved the amendment, and the vote of the members and directors by which the amendment was adopted.

(d) The certificate so signed must be filed in the Office of the Secretary of State.

2. A certificate filed pursuant to this section is effective upon filing the certificate with the Secretary of State or upon a later date specified in the certificate, which must not be more than 90 days after the certificate is filed.

3. If any proposed amendment would alter or change any preference or any relative or other right given to any class of members, then the amendment must be approved by the vote, in addition to the affirmative vote otherwise required, of the holders of a majority of a quorum of the voting power of each class of members affected by the amendment regardless of limitations or restrictions on their voting power.

4. In the case of any specified amendments, the articles may require a larger vote of members than that required by this section.

Sec. 87. NRS 82.371 is hereby amended to read as follows:

82.371 1. A corporation may restate, or amend and restate, in a single certificate the entire text of its articles as amended by filing with the Secretary of State a certificate which must set forth the articles as amended to the date of the certificate. If the certificate alters or amends the articles in any manner, it must comply with the provisions of NRS 82.346, 82.351 and 82.356, as applicable, and must be accompanied by a form prescribed by the Secretary of State setting forth which provisions of the articles of incorporation on file with the Secretary of State are being altered or amended.

2. If the certificate does not alter or amend the articles, it must be signed by an officer of the corporation and must state that he has been authorized to sign the certificate by resolution of the board of directors adopted on the date stated, and that the certificate correctly sets forth the text of the articles as amended to the date of the certificate.

3. The following may be omitted from the restated articles:

(a) The names, addresses, signatures and acknowledgments of the incorporators;

(b) The names and addresses of the members of the past and present board of directors; and

(c) The ~~name and address of the resident agent.~~ *information required by subsection 1 of section 31 of this act.*

4. Whenever a corporation is required to file a certified copy of its articles, in lieu thereof it may file a certified copy of the most recent certificate restating its articles as amended, subject to the provisions of subsection 2, together with certified copies of all certificates of amendment filed after the restated articles and certified copies of all certificates supplementary to the original articles.

5. A certificate filed pursuant to this section is effective upon filing the certificate with the Secretary of State or upon a later date specified in the certificate, which must not be more than 90 days after the certificate is filed.

Sec. 88. NRS 82.471 is hereby amended to read as follows:

82.471 1. Whenever any corporation becomes insolvent or suspends its ordinary business for want of funds to carry on the business, or if its business has been and is being conducted at a great loss and greatly prejudicial to the interest of its creditors or members, creditors holding 10 percent of the outstanding indebtedness, or members, if any, having 10 percent of the voting power to elect directors, may, by petition or bill of complaint setting forth the facts and circumstances of the case, apply to the district court of the county in which the ~~registered~~ *principal* office of the corporation is located *or to the district court in Carson City* for a writ of injunction and the appointment of a receiver or receivers or trustee or trustees.

2. The court, being satisfied by affidavit or otherwise of the sufficiency of the application and of the truth of the allegations contained in the petition or bill, and upon hearing after such notice as the court by order may direct,

shall proceed in a summary way to hear the affidavits, proofs and allegations which may be offered in behalf of the parties.

3. If upon the inquiry it appears to the court that the corporation has become insolvent and is not about to resume its business in a short time thereafter, or that its business has been and is being conducted at a great loss and greatly prejudicial to the interests of its creditors or members, so that its business cannot be conducted with safety to the public, it may issue an injunction to restrain the corporation and its officers and agents from exercising any of its privileges or franchises and from collecting or receiving any debts or paying out, selling, assigning or transferring any of its estate, money, funds, lands, tenements or effects, except to a receiver appointed by the court, until the court otherwise orders.

Sec. 89. NRS 82.486 is hereby amended to read as follows:

82.486 1. The persons described in subsections 2 and 3 may apply to the district court in the district where the corporation has its ~~registered office~~ *principal office or, if the principal office is not located in this State, to the district court in Carson City:*

(a) For an order dissolving the corporation and appointing a receiver to wind up its affairs, and by injunction restrain the corporation from exercising any of its powers or doing business whatsoever, except by or through a receiver appointed by the court; or

(b) For such other equitable relief that is just and proper in the circumstances.

2. A member or members, if any, holding at least one-third of the voting power for the election of directors or a majority of the directors in office, may apply for the relief described in subsection 1 whenever it is established that:

(a) The corporation has willfully violated its charter;

(b) Its trustees or directors have been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;

(c) Its trustees or directors have been guilty of misfeasance, malfeasance or nonfeasance;

(d) The corporation is unable to conduct its activities or conserve its assets by reason of the act, neglect or refusal to function of any of the directors or trustees;

(e) The assets of the corporation are in danger of waste, misapplication, sacrifice or loss;

(f) The corporation has abandoned its business;

(g) The corporation has not proceeded diligently to wind up its affairs or to distribute its assets in a reasonable time;

(h) The corporation has become insolvent;

(i) The corporation, although not insolvent, is for any cause not able to pay its debts or other obligations as they mature;

(j) The corporation is not about to resume its business with safety to the public;

(k) The period of corporate existence has expired and has not been lawfully extended;

(l) The corporation has solicited property and has failed to use it for the purpose solicited;

(m) The corporation has fraudulently used or solicited property; or

(n) The corporation has exceeded its powers.

3. The Attorney General may apply for the relief described in subsection 1 whenever the corporation is a corporation for public benefit and whenever it is established that:

(a) The corporation has willfully violated its charter;

(b) Its trustees or directors have been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;

(c) The corporation has abandoned its business;

(d) The corporation has become insolvent;

(e) The corporation, although not insolvent, is for any cause not able to pay its debts or other obligations as they mature;

(f) The corporation has solicited property and has failed to use it for the purpose solicited;

(g) The corporation has fraudulently used or solicited property; or

(h) The period of corporate existence has expired and has not been lawfully extended.

4. Any person or superior organization under which the corporation was formed, if expressly authorized to act by the articles, may apply for the relief described in subsection 1 pursuant to the grounds, if any, set forth in the articles.

Sec. 90. NRS 82.523 is hereby amended to read as follows:

82.523 1. Each foreign nonprofit corporation doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign nonprofit corporation with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign nonprofit corporation;

(b) The file number of the foreign nonprofit corporation, if known;

(c) The names and titles of the president, the secretary and the treasurer, or the equivalent thereof, and all the directors of the foreign nonprofit corporation;

(d) The address, either residence or business, of the president, secretary and treasurer, or the equivalent thereof, and each director of the foreign nonprofit corporation;

~~(e) The name and address of its lawfully designated resident agent in this State; information required by subsection 1 of section 31 of this act; and~~

~~(f) information required by subsection 1 of section 31 of this act; and~~

~~(e)~~ The signature of an officer of the foreign nonprofit corporation certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign nonprofit corporation:

(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 with the Office of the Secretary of State.

3. Upon filing the initial list and each annual list pursuant to this section, the foreign nonprofit corporation must pay to the Secretary of State a fee of \$25.

4. The Secretary of State shall, 60 days before the last day for filing each annual list, cause to be mailed to each foreign nonprofit corporation which is required to comply with the provisions of NRS 82.523 to 82.5239, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign nonprofit corporation to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 82.523 to 82.5239, inclusive.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list for a foreign nonprofit corporation not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 91. NRS 82.5236 is hereby amended to read as follows:

82.5236 1. The Secretary of State shall notify, by providing written notice to its ~~resident~~ *registered* agent, each foreign nonprofit corporation deemed in default pursuant to NRS 82.5235. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the ~~resident~~ *registered* agent, may be provided electronically.

2. Immediately after the last day of the month in which the anniversary date of incorporation occurs, the Secretary of State shall compile a complete list containing the names of all foreign nonprofit corporations whose right to transact business has been forfeited.

3. The Secretary of State shall notify, by providing written notice to its ~~resident~~ *registered* agent, each foreign nonprofit corporation specified in subsection 2 of the forfeiture of its right to transact business. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the ~~resident~~ *registered* agent, may be provided electronically.

Sec. 92. NRS 82.5237 is hereby amended to read as follows:

82.5237 1. Except as otherwise provided in subsections 3 and 4, 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]~~ 7 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. 93. NRS 82.546 is hereby amended to read as follows:

82.546 1. 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.]~~ *information required by subsection 1 of section 31 of this act.*

(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. 94. NRS 84.006 is hereby amended to read as follows:

84.006 "Street address" of a ~~resident~~ registered agent means the actual physical location in this State at which a ~~resident~~ registered agent is available for service of process.

Sec. 95. NRS 84.020 is hereby amended to read as follows:

84.020 An archbishop, bishop, president, trustee in trust, president of stake, president of congregation, overseer, presiding elder, district superintendent, other presiding officer or clergyman of a church or religious society or denomination, who has been chosen, elected or appointed in conformity with the constitution, canons, rites, regulations or discipline of the church or religious society or denomination, and in whom is vested the legal title to property held for the purposes, use or benefit of the church or religious society or denomination, may make and sign written articles of incorporation, in duplicate, and file one copy of the articles ~~[, together with a certificate of acceptance of appointment signed by the resident agent of the corporation,]~~ in the Office of the Secretary of State and retain possession of the other.

Sec. 96. NRS 84.030 is hereby amended to read as follows:

84.030 The articles of incorporation must specify:

1. The name of the corporation, which must be the name of the person making and subscribing the articles and the title of his office in the church or

religious society, naming it if desired, and followed by the words "and his successors, a corporation sole," or the title of his office in the church or religious society, naming it if desired, and followed by the words "and his successors, a corporation sole."

2. The object of the corporation.

3. The title of the person making the articles, and the manner in which any vacancy occurring in the incumbency of an archbishop, bishop, president, trustee in trust, president of stake, president of congregation, overseer, presiding elder, district superintendent, other presiding officer or clergyman is required by the rules, regulations or discipline of such church, society or denomination to be filled.

4. ~~The [name of the natural person or corporation designated as the corporation's resident agent, the street address for the service of process, and the mailing address if different from the street address.]~~ *information required by subsection 1 of section 31 of this act.*

Sec. 97. NRS 84.110 is hereby amended to read as follows:

84.110 1. Every corporation sole must have a ~~[resident]~~ *registered* agent in the manner provided in NRS 78.090 and ~~[78.095, subsections 1 to 4, inclusive, of NRS]~~ 78.097 . ~~[and NRS 78.110. The resident]~~ *The registered* agent shall comply with the provisions of those sections.

2. ~~[A corporation sole that fails to file a certificate of acceptance signed by the new resident agent within 30 days after the death, resignation or removal of its former resident agent shall be deemed in default and is subject to the provisions of NRS 84.130 and 84.140.]~~

~~3.]~~ A corporation sole is subject to the provisions of NRS 78.150 to 78.185, inclusive, except that:

- (a) The fee for filing a list is \$25;
- (b) The penalty added for default is \$50; and
- (c) The fee for reinstatement is \$100.

Sec. 98. NRS 84.120 is hereby amended to read as follows:

84.120 1. ~~[A resident agent who wishes to resign shall:~~

~~(a) File with the Secretary of State a signed statement in the manner provided pursuant to subsection 1 of NRS 78.097 that he is unwilling to continue to act as the resident agent of the corporation for the service of process; and~~

~~(b) Pay to the Secretary of State the filing fee set forth in subsection 1 of NRS 78.097.~~

~~➔ A resignation is not effective until the signed statement is filed with the Secretary of State.~~

~~2.—The statement of resignation may contain a statement of the affected corporation sole appointing a successor resident agent for that corporation. A certificate of acceptance signed by the new resident agent, stating the full name, complete street address and, if different from the street address, mailing address of the new resident agent, must accompany the statement appointing a successor resident agent.~~

~~3.— Upon the filing of the statement of resignation with the Secretary of State, the capacity of the resigning person as resident agent terminates. If the statement of resignation contains no statement by the corporation sole appointing a successor resident agent, the resigning resident agent shall immediately give written notice, by mail, to the corporation of the filing of the statement and its effect. The notice must be addressed to the person in whom is vested the legal title to property specified in NRS 84.020.~~

~~4.] If a [resident agent dies, resigns or removes from the State,] registered agent resigns pursuant to section 37 of this act or if a commercial registered agent terminates its listing as a commercial registered agent pursuant to section 33 of this act, the corporation sole, [within 30 days thereafter,] before the effective date of the resignation or termination, shall file with the Secretary of State a [certificate of acceptance signed by the new resident agent. The certificate must set forth the full name and complete street address of the new resident agent for the service of process, and may have a separate mailing address, such as a post office box, which may be different from the street address.~~

~~5.] statement of change of registered agent pursuant to section 34 of this act.~~

2. A corporation sole that fails to ~~[file a certificate of acceptance signed by the new resident agent within 30 days after the death, resignation or removal of its former resident agent]~~ *comply with subsection 1* shall be deemed in default and is subject to the provisions of NRS 84.130 and 84.140.

3. *As used in this section, "commercial registered agent" has the meaning ascribed to it in section 5 of this act.*

Sec. 99. NRS 84.140 is hereby amended to read as follows:

84.140 1. The Secretary of State shall notify, by providing written notice to its ~~[resident]~~ *registered* agent, each corporation sole deemed in default pursuant to the provisions of this chapter. The notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the ~~[resident]~~ *registered* agent, may be provided electronically.

2. On the first day of the first anniversary of the month following the month in which the filing was required, the charter of the corporation sole is revoked and its right to transact business is forfeited.

3. The Secretary of State shall compile a complete list containing the names of all corporations sole whose right to transact business has been forfeited.

4. The Secretary of State shall forthwith notify, by providing written notice to its ~~[resident]~~ *registered* agent, each corporation specified in subsection 3 of the forfeiture of its charter. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the ~~[resident]~~ *registered* agent, may be provided electronically.

Sec. 100. NRS 84.150 is hereby amended to read as follows:

84.150 1. Except as otherwise provided in subsections 3 and 4, the Secretary of State shall reinstate any corporation sole 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 corporate privileges and immunities, if it:

(a) Files with the Secretary of State ~~[a certificate of acceptance of appointment signed by the resident agent of the corporation;]~~ *the information required by subsection 1 of section 31 of this act;* and

(b) Pays to the Secretary of State:

(1) The filing fees and penalties set forth in this chapter for each year or portion thereof during which its charter has been revoked; and

(2) A fee of \$25 for reinstatement.

2. When the Secretary of State reinstates the corporation to its former rights, he shall:

(a) Immediately issue and deliver to the corporation a certificate of reinstatement authorizing it to transact business, as if the fees had been paid when due; and

(b) Upon demand, issue to the corporation a certified copy of the certificate of reinstatement.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation of its charter occurred only by reason of its 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 10 consecutive years, the charter must not be reinstated.

Sec. 101. Chapter 86 of NRS is hereby amended by adding thereto a new section to read as follows:

"Registered agent" has the meaning ascribed to it in section 24 of this act.

Sec. 102. NRS 86.011 is hereby amended to read as follows:

86.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 86.022 to 86.128, inclusive, *and section 101 of this act* have the meanings ascribed to them in those sections.

Sec. 103. NRS 86.121 is hereby amended to read as follows:

86.121 "Registered office" of a limited-liability company means the office maintained at the street address of its ~~[resident]~~ *registered* agent.

Sec. 104. NRS 86.128 is hereby amended to read as follows:

86.128 "Street address" of a ~~[resident]~~ *registered* agent means the actual physical location in this State at which a ~~[resident]~~ *registered* agent is available for service of process.

Sec. 105. NRS 86.151 is hereby amended to read as follows:

86.151 1. One or more persons may form a limited-liability company by ~~+~~

~~(a) Signing~~ *signing* and filing with the Secretary of State articles of organization for the company. ~~[- and~~

~~(b) Filing with the Secretary of State a certificate of acceptance of appointment, signed by the resident agent of the company.]~~

2. Upon the filing of the articles of organization ~~[- and the certificate of acceptance]~~ with the Secretary of State ~~[-]~~ and the payment to him of the required filing fees, the Secretary of State shall issue to the company a certificate that the articles, containing the required statement of facts, have been filed.

3. A signer of the articles of organization or a manager designated in the articles does not thereby become a member of the company. At all times after commencement of business by the company, the company must have one or more members. The filing of the articles does not, by itself, constitute commencement of business by the company.

Sec. 106. NRS 86.161 is hereby amended to read as follows:

86.161 1. The articles of organization must set forth:

(a) The name of the limited-liability company;

~~(b) The [name and complete street address of its resident agent, and the mailing address of the resident agent if different from the street address;]~~
information required by subsection 1 of section 31 of this act;

(c) The name and address, either residence or business, of each of the organizers signing the articles;

(d) If the company is to be managed by:

(1) One or more managers, the name and address, either residence or business, of each initial manager; or

(2) The members, the name and address, either residence or business, of each initial member; and

(e) If the company is to have one or more series of members and the debts or liabilities of any series are to be enforceable against the assets of that series only and not against the assets of another series or the company generally, a statement to that effect and a statement:

(1) Setting forth the relative rights, powers and duties of the series; or

(2) Indicating that the relative rights, powers and duties of the series will be set forth in the operating agreement or established as provided in the operating agreement.

2. The articles may set forth any other provision, not inconsistent with law, which the members elect to set out in the articles of organization for the regulation of the internal affairs of the company, including any provisions which under this chapter are required or permitted to be set out in the operating agreement of the company.

3. It is not necessary to set out in the articles of organization:

(a) The rights of the members to contract debts on behalf of the limited-liability company if the limited-liability company is managed by its members;

(b) The rights of the manager or managers to contract debts on behalf of the limited-liability company if the limited-liability company is managed by a manager or managers; or

(c) Any of the powers enumerated in this chapter.

Sec. 107. NRS 86.201 is hereby amended to read as follows:

86.201 1. A limited-liability company is considered legally organized pursuant to this chapter upon:

(a) Filing the articles of organization with the Secretary of State or upon a later date specified in the articles of organization; *and*

(b) ~~{Filing the certificate of acceptance of the resident agent with the Secretary of State; and~~

~~(c)}~~ Paying the required filing fees to the Secretary of State.

2. A limited-liability company must not transact business or incur indebtedness, except that which is incidental to its organization or to obtaining subscriptions for or payment of contributions, until the company is considered legally organized pursuant to subsection 1.

Sec. 108. NRS 86.221 is hereby amended to read as follows:

86.221 1. The articles of organization of a limited-liability company may be amended for any purpose, not inconsistent with law, as determined by all of the members or permitted by the articles or an operating agreement.

2. ~~{An}~~ *Except as otherwise provided in section 34 of this act, an amendment must be made in the form of a certificate setting forth:*

(a) The name of the limited-liability company;

(b) Whether the limited-liability company is managed by managers or members; and

(c) The amendment to the articles of organization.

3. The certificate of amendment must be signed by a manager of the company or, if management is not vested in a manager, by a member.

4. Restated articles of organization may be signed and filed in the same manner as a certificate of amendment. If the certificate alters or amends the articles in any manner, it must be accompanied by a form prescribed by the Secretary of State setting forth which provisions of the articles of organization on file with the Secretary of State are being altered or amended.

5. The following may be omitted from the restated articles of organization:

(a) The names, addresses, signatures and acknowledgments of the organizers;

(b) The names and addresses of the past and present members or managers; and

(c) The ~~{name and address of the resident agent.}~~ *information required by subsection 1 of section 31 of this act.*

Sec. 109. NRS 86.231 is hereby amended to read as follows:

86.231 ~~{1. Except during any period of vacancy described in NRS 86.251, a}~~ A limited-liability company shall have a ~~{resident}~~ registered agent who must have a street address for the service of process. The street

address of the ~~[resident]~~ *registered* agent is the registered office of the limited-liability company in this State.

~~[2.—Within 30 days after changing the location of his office from one address to another in this State, a resident agent shall file a certificate with the Secretary of State setting forth the names of the limited liability companies represented by him, the address at which he has maintained the office for each of the limited liability companies, and the new address to which the office is transferred.]~~

Sec. 110. NRS 86.251 is hereby amended to read as follows:

86.251 1. ~~[A resident agent who desires to resign shall:~~

~~(a) File with the Secretary of State a signed statement in the manner provided pursuant to subsection 1 of NRS 78.097 that he is unwilling to continue to act as the resident agent of the limited liability company for the service of process; and~~

~~(b) Pay to the Secretary of State the filing fee set forth in subsection 1 of NRS 78.097.~~

~~➔ A resignation is not effective until the signed statement is filed with the Secretary of State.~~

~~2.—The statement of resignation may contain a statement of the affected limited liability company appointing a successor resident agent for that limited liability company, giving the agent's full name, street address for the service of process, and mailing address if different from the street address. A certificate of acceptance signed by the new resident agent must accompany the statement appointing a successor resident agent.~~

~~3.—Upon the filing of the statement of resignation with the Secretary of State, the capacity of the resigning person as resident agent terminates. If the statement of resignation contains no statement by the limited liability company appointing a successor resident agent, the resigning agent shall immediately give written notice, by mail, to the limited liability company of the filing of the statement and its effect. The notice must be addressed to any manager or, if none, to any member of the limited liability company other than the resident agent.~~

~~4.] If a [resident agent dies, resigns or moves from the State,] registered agent resigns pursuant to section 37 of this act or if a commercial registered agent terminates its listing as a commercial registered agent pursuant to section 33 of this act, the limited-liability company, [within 30 days thereafter,] before the effective date of the resignation or termination, shall file with the Secretary of State a [certificate of acceptance signed by the new resident agent. The certificate must set forth the name, complete street address and mailing address, if different from the street address, of the new resident agent.~~

~~5.] statement of change of registered agent pursuant to section 34 of this act.~~

2. Each limited-liability company which fails to ~~[file a certificate of acceptance signed by the new resident agent within 30 days after the death,~~

~~resignation or removal of its resident agent as provided in subsection 4]~~
~~comply with subsection 1~~ shall be deemed in default and is subject to the provisions of NRS 86.272 and 86.274.

3. *As used in this section, "commercial registered agent" has the meaning ascribed to it in section 5 of this act.*

Sec. 111. NRS 86.261 is hereby amended to read as follows:

86.261 1. The ~~resident~~ registered agent appointed by a limited-liability company is an agent of the company upon whom any process, notice or demand required or permitted by law to be served upon the company may be served.

2. This section does not limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a limited-liability company in any other manner permitted by law.

Sec. 112. 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;~~ *information required by subsection 1 of section 31 of this act;*

and

(f) ~~The~~ 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 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. 113. NRS 86.274 is hereby amended to read as follows:

86.274 1. The Secretary of State shall notify, by providing written notice to its ~~resident~~ *registered* agent, each limited-liability company deemed in default pursuant to the provisions of this chapter. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the ~~resident~~ *registered* agent, may be provided electronically.

2. On the first day of the first anniversary of the month following the month in which the filing was required, the charter of the company is revoked and its right to transact business is forfeited.

3. The Secretary of State shall compile a complete list containing the names of all limited-liability companies whose right to transact business has been forfeited.

4. The Secretary of State shall forthwith notify, by providing written notice to its ~~resident~~ *registered* agent, each limited-liability company specified in subsection 3 of the forfeiture of its charter. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the ~~resident~~ *registered* agent, may be provided electronically.

5. If the charter of a limited-liability company is revoked and the right to transact business is forfeited, all of the property and assets of the defaulting company must be held in trust by the managers or, if none, by the members

of the company, and the same proceedings may be had with respect to its property and assets as apply to the dissolution of a limited-liability company pursuant to NRS 86.505 and 86.521. Any person interested may institute proceedings at any time after a forfeiture has been declared, but, if the Secretary of State reinstates the charter, the proceedings must be dismissed and all property restored to the company.

6. If the assets are distributed, they must be applied in the following manner:

(a) To the payment of the filing fee, penalties incurred and costs due to the State; and

(b) To the payment of the creditors of the company.

➡ Any balance remaining must be distributed among the members as provided in subsection 1 of NRS 86.521.

Sec. 114. NRS 86.276 is hereby amended to read as follows:

86.276 1. Except as otherwise provided in subsections 3 and 4, 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; *and*

(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. 115. NRS 86.544 is hereby amended to read as follows:

86.544 Before transacting business in this State, a foreign limited-liability company must register with the Secretary of State. In order to register, a foreign limited-liability company must submit to the Secretary

of State an application for registration as a foreign limited-liability company, signed by a manager of the company or, if management is not vested in a manager, a member of the company . ~~[and a signed certificate of acceptance of a resident agent.]~~ The application for registration must set forth:

1. The name of the foreign limited-liability company and, if different, the name under which it proposes to register and transact business in this State;

2. The state and date of its formation;

3. ~~The [name and address of the resident agent in this State whom the foreign limited liability company elects to appoint;]~~ *information required by subsection 1 of section 31 of this act;*

4. A statement that the Secretary of State is appointed the agent of the foreign limited-liability company for service of process if the authority of the ~~[resident]~~ *registered* agent has been revoked, or if the ~~[resident]~~ *registered* agent has resigned or cannot be found or served with the exercise of reasonable diligence;

5. The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited-liability company;

6. The name and business address of each manager or, if management is not vested in a manager, each member;

7. The address of the office at which is kept a list of the names and addresses of the members and their capital contributions, together with an undertaking by the foreign limited-liability company to keep those records until the registration in this State of the foreign limited-liability company is cancelled or withdrawn; and

8. If the foreign limited-liability company has one or more series of members and if the debts or liabilities of a series are enforceable against the assets of that series only and not against the assets of the company generally or another series, a statement to that effect.

Sec. 116. NRS 86.5461 is hereby amended to read as follows:

86.5461 1. Each foreign limited-liability company doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited-liability company with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list on a form furnished by him that contains:

(a) The name of the foreign limited-liability company;

(b) The file number of the foreign limited-liability company, if known;

(c) The names and titles of all its managers or, if there is no manager, all its managing members;

(d) The address, either residence or business, of each manager or managing member listed pursuant to paragraph (c);

~~(e) The [name and street address of its lawfully designated resident agent in this State]; information required by subsection 1 of section 31 of this act; and~~

~~(f) information required by subsection 1 of section 31 of this act; and~~

~~(e)~~ The signature of a manager or managing member of the foreign limited-liability company certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign 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 with the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of \$125.

(b) Each annual list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of \$125.

4. If a manager or managing member of a foreign limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the foreign 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.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by this section, cause to be mailed to each foreign limited-liability company which is required to comply with the provisions of NRS 86.5461 to 86.5468, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign limited-liability company to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 86.5461 to 86.5468, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited-liability company not in default which is received by the Secretary of State more than 90 days before its due date ~~must~~ shall be deemed an amended list for the previous year and does not satisfy the requirements of this section for the year to which the due date is applicable.

Sec. 117. NRS 86.5466 is hereby amended to read as follows:

86.5466 1. The Secretary of State shall notify, by providing written notice to its ~~resident~~ registered agent, each foreign limited-liability company deemed in default pursuant to NRS 86.5465. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the ~~resident~~ *registered* agent, may be provided electronically.

2. Immediately after the last day of the month in which the anniversary date of its organization occurs, the Secretary of State shall compile a complete list containing the names of all foreign limited-liability companies whose right to transact business has been forfeited.

3. The Secretary of State shall notify, by providing written notice to its ~~resident~~ *registered* agent, each foreign limited-liability company specified in subsection 2 of the forfeiture of its right to transact business. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the ~~resident~~ *registered* agent, may be provided electronically.

Sec. 118. NRS 86.5467 is hereby amended to read as follows:

86.5467 1. Except as otherwise provided in subsections 3 and 4, 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; *and*

(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. 119. NRS 86.561 is hereby amended to read as follows:

86.561 1. The Secretary of State shall charge and collect for:

(a) Filing the original articles of organization, or for registration of a foreign company, \$75;

(b) Amending or restating the articles of organization, amending the registration of a foreign company or filing a certificate of correction, \$175;

(c) Filing the articles of dissolution of a domestic or foreign company, \$75;

(d) ~~Filing a statement of change of address of a records or registered office, or change of the resident agent, \$60;~~

~~(e)}~~ Certifying a copy of articles of organization or an amendment to the articles, \$30;

~~{{(f)}}~~ (e) Certifying an authorized printed copy of this chapter, \$30;

~~{{(g)}}~~ (f) Reserving a name for a limited-liability company, \$25;

~~{{(h)}}~~ (g) Filing a certificate of cancellation, \$75;

~~{{(i)}}~~ (h) Signing, filing or certifying any other record, \$50; and

~~{{(j)}}~~ (i) Copies provided by the Office of the Secretary of State, \$2 per page.

2. The Secretary of State shall charge and collect, at the time of any service of process on him as agent for service of process of a limited-liability company, \$100 which may be recovered as taxable costs by the party to the action causing the service to be made if the party prevails in the action.

3. Except as otherwise provided in this section, the fees set forth in NRS 78.785 apply to this chapter.

Sec. 120. NRS 86.580 is hereby amended to read as follows:

86.580 1. 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.}~~ *information required by subsection 1 of section 31 of this act.*

(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. 121. NRS 87.008 is hereby amended to read as follows:

87.008 "Street address" of a ~~{resident}~~ *registered* agent means the actual physical location in this State at which a ~~{resident}~~ *registered* agent is available for service of process.

Sec. 122. NRS 87.440 is hereby amended to read as follows:

87.440 1. To become a registered limited-liability partnership, a partnership shall file with the Secretary of State a certificate of registration stating each of the following:

(a) The name of the partnership.
 (b) The street address of its principal office.
 (c) ~~The {name of the person designated as the partnership's resident agent, the street address of the resident agent where process may be served upon the partnership and the mailing address of the resident agent if it is different than his street address.}~~ *information required by subsection 1 of section 31 of this act.*

(d) The name and business address of each managing partner in this State.

(e) A brief statement of the professional service rendered by the partnership.

(f) That the partnership thereafter will be a registered limited-liability partnership.

(g) Any other information that the partnership wishes to include.

2. The certificate of registration must be signed by a majority in interest of the partners or by one or more partners authorized to sign such a certificate.

3. The certificate of registration must be accompanied by a fee of \$75.

4. The Secretary of State shall register as a registered limited-liability partnership any partnership that submits a completed certificate of registration with the required fee.

5. The registration of a registered limited-liability partnership is effective at the time of the filing of the certificate of registration.

Sec. 123. NRS 87.480 is hereby amended to read as follows:

87.480 ~~{1. Except during the period described in subsection 3, a}~~ A registered limited-liability partnership must have a ~~{resident}~~ registered agent who resides or is located in this State. A ~~{resident}~~ registered agent must have a street address for the service of process that is the principal office of the registered limited-liability company in this State, and may have a separate mailing address that is different from his street address.

~~{2. A resident agent for a registered limited liability partnership shall file a certificate of acceptance with the Secretary of State.~~

~~3. A resident agent shall, within 30 days after changing the location of his office from one address to another address in this State, file a certificate with the Secretary of State that sets forth the names of the registered limited liability partnerships represented by the agent and the new address of his office.}~~

Sec. 124. NRS 87.490 is hereby amended to read as follows:

87.490 1. If a registered limited-liability partnership wishes to change the location of its principal office in this State, ~~{or its resident agent,}~~ it shall first file with the Secretary of State a certificate of change of principal office ~~{or resident agent}~~ that sets forth:

- (a) The name of the registered limited-liability partnership;
- (b) The street address of its principal office; *and*
- (c) ~~{If the location of its principal office will be changed, the}~~ The street address of its new principal office. ~~{}~~
- ~~(d) The name of its resident agent; and~~
- ~~(e) If its resident agent will be changed, the name of its new resident agent.~~

~~2. A certificate of acceptance signed by the new resident agent must accompany the certificate of change of resident agent.~~

~~3.}~~ 2. A certificate of change of principal office ~~{or resident agent}~~ filed pursuant to this section must be:

- (a) Signed by a managing partner of the registered limited-liability partnership; and
- (b) Accompanied by a fee of \$60.

~~{4. If the name of a resident agent is changed as a result of a merger, conversion, exchange, sale, reorganization or amendment, the resident agent shall:~~

~~(a) File with the Secretary of State a certificate of name change of resident agent that includes:~~

~~(1) The current name of the resident agent as filed with the Secretary of State;~~

~~(2) The new name of the resident agent; and~~

~~(3) The name and file number of each artificial person formed, organized, registered or qualified pursuant to the provisions of this title that the resident agent represents; and~~

~~(b) Pay to the Secretary of State a filing fee of \$100.~~

~~5.] 3. A change authorized by this section becomes effective upon the filing of the proper certificate of change.~~

Sec. 125. NRS 87.500 is hereby amended to read as follows:

87.500 1. ~~[A resident agent who wishes to resign shall:~~

~~(a) File with the Secretary of State a signed statement in the manner provided pursuant to subsection 1 of NRS 78.097 that he is unwilling to continue to act as the resident agent of the registered limited liability partnership for the service of process; and~~

~~(b) Pay to the Secretary of State the filing fee set forth in subsection 1 of NRS 78.097.~~

~~➔ A resignation is not effective until the signed statement is filed with the Secretary of State.~~

~~2.— The statement of resignation may contain a statement by the affected registered limited liability partnership appointing a successor resident agent. A certificate of acceptance signed by the new agent, stating the full name, complete street address and, if different from the street address, the mailing address of the new agent, must accompany the statement appointing the new resident agent.~~

~~3.— Upon the filing of the statement with the Secretary of State, the capacity of the person as resident agent terminates. If the statement of resignation contains no statement by the registered limited liability partnership appointing a successor resident agent, the resigning agent shall immediately give written notice, by certified mail, to the registered limited liability partnership of the filing of the statement and its effect. The notice must be addressed to a managing partner in this State.~~

~~4.] If a [resident agent dies, resigns or removes himself from the State,] registered agent resigns pursuant to section 37 of this act or if a commercial registered agent terminates its listing as a commercial registered agent pursuant to section 33 of this act, the registered limited-liability partnership shall, [within 30 days thereafter,] before the effective date of the resignation or termination, file with the Secretary of State a [certificate of acceptance, signed by the new resident agent. The certificate must set forth the full name, complete street address and, if different from the street address, the mailing address of the newly designated resident agent.~~

~~5.] statement of change of registered agent pursuant to section 34 of this act.~~

2. If a registered limited-liability partnership fails to ~~[file a certificate of acceptance within the period required by subsection 4,]~~ *comply with subsection 1*, it is in default and is subject to the provisions of NRS 87.520.

3. *As used in this section, "commercial registered agent" has the meaning ascribed to it in section 5 of this act.*

Sec. 126. NRS 87.510 is hereby amended to read as follows:

87.510 1. A registered limited-liability partnership shall, on or before the last day of the first month after the filing of its certificate of registration with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of registration with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

- (a) The name of the registered limited-liability partnership;
- (b) The file number of the registered limited-liability partnership, if known;
- (c) The names of all of its managing partners;
- (d) The address, either residence or business, of each managing partner;
- ~~(e) The [name and street address of its lawfully designated resident agent in this State;] information required by subsection 1 of section 31 of this act;~~
- and
- ~~(f) [information required by subsection 1 of section 31 of this act; and~~
- ~~(e)]~~ The signature of a managing partner of the registered limited-liability partnership certifying that the list is true, complete and accurate.

↪ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the registered limited-liability partnership has complied with the provisions of NRS 360.780 and which 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.

2. Upon filing:

(a) The initial list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of \$125.

(b) Each annual list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of \$125.

3. If a managing partner of a registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the registered limited-liability partnership or the resigning managing partner shall pay to the Secretary of State a fee of \$75 to file the resignation.

4. The Secretary of State shall, at least 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to the registered limited-liability partnership a notice of the fee due pursuant to subsection 2 and a reminder to file the annual list required by subsection 1. The failure of any registered limited-liability partnership to receive a notice

or form does not excuse it from complying with the provisions of this section.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective, or the fee required by subsection 2 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list that is filed by a registered limited-liability partnership which is not in default more than 90 days before it is due shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 127. NRS 87.520 is hereby amended to read as follows:

87.520 1. A registered limited-liability partnership that fails to comply with the provisions of NRS 87.510 is in default.

2. Upon notification from the Administrator of the Real Estate Division of the Department of Business and Industry that a registered limited-liability partnership which is a unit-owners' association as defined in NRS 116.011 has failed to register pursuant to NRS 116.31158 or failed to pay the fees pursuant to NRS 116.31155, the Secretary of State shall deem the registered limited-liability partnership to be in default. If, after the registered limited-liability partnership is deemed to be in default, the Administrator notifies the Secretary of State that the registered limited-liability partnership has registered pursuant to NRS 116.31158 and paid the fees pursuant to NRS 116.31155, the Secretary of State shall reinstate the registered limited-liability partnership if the registered limited-liability partnership complies with the requirements for reinstatement as provided in this section and NRS 87.530.

3. Any registered limited-liability partnership that is in default pursuant to this section must, in addition to the fee required to be paid pursuant to NRS 87.510, pay a penalty of \$75.

4. The Secretary of State shall provide written notice to the ~~resident~~ *registered* agent of any registered limited-liability partnership that is in default. The written notice:

(a) Must include the amount of any payment that is due from the registered limited-liability partnership.

(b) At the request of the ~~resident~~ *registered* agent, may be provided electronically.

5. If a registered limited-liability partnership fails to pay the amount that is due, the certificate of registration of the registered limited-liability partnership shall be deemed revoked immediately after the last day of the month in which the anniversary date of the filing of the certificate of registration occurs, and the Secretary of State shall notify the registered limited-liability partnership, by providing written notice to its ~~resident~~ *registered* agent or, if the registered limited-liability partnership does not have a ~~resident~~ *registered* agent, to a managing partner, that its certificate of registration is revoked. The written notice:

(a) Must include the amount of any fees and penalties incurred that are due.

(b) At the request of the resident agent or managing partner, may be provided electronically.

Sec. 128. NRS 87.530 is hereby amended to read as follows:

87.530 1. Except as otherwise provided in subsection 3, 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~~ 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. 129. NRS 87.541 is hereby amended to read as follows:

87.541 1. Each foreign registered limited-liability partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign registered limited-liability partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign registered limited-liability partnership;

(b) The file number of the foreign registered limited-liability partnership, if known;

(c) The names of all its managing partners;

(d) The address, either residence or business, of each managing partner;

(e) The [name and street address of its lawfully designated resident agent in this State;] information required by subsection 1 of section 31 of this act; and

(f) [information required by subsection 1 of section 31 of this act; and

~~(e)~~ The signature of a managing partner of the foreign registered limited-liability partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign registered limited-liability partnership:

- (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.

3. Upon filing:

(a) The initial list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of \$125.

(b) Each annual list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of \$125.

4. If a managing partner of a foreign registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the foreign registered limited-liability partnership or the managing partner shall pay to the Secretary of State a fee of \$75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign registered limited-liability partnership which is required to comply with the provisions of NRS 87.541 to 87.544, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign registered limited-liability partnership to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 87.541 to 87.544, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign registered limited-liability partnership not in default which is received by the Secretary of State more than 90 days before its due date ~~must~~ shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 130. NRS 87.543 is hereby amended to read as follows:

87.543 1. The Secretary of State shall notify, by providing written notice to its ~~resident~~ registered agent, each foreign registered limited-liability partnership deemed in default pursuant to NRS 87.5425. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the ~~resident~~ registered agent, may be provided electronically.

2. Immediately after the last day of the month in which the anniversary date of its registration occurs, the Secretary of State shall compile a complete list containing the names of all foreign registered limited-liability partnerships whose right to transact business has been forfeited.

3. The Secretary of State shall notify, by providing written notice to its ~~resident~~ *registered* agent, each foreign registered limited-liability partnership specified in subsection 2 of the forfeiture of its right to transact business. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the ~~resident~~ *registered* agent, may be provided electronically.

Sec. 131. NRS 87.5435 is hereby amended to read as follows:

87.5435 1. Except as otherwise provided in subsections 3 and 4, 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~~ *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. 132. NRS 88.315 is hereby amended to read as follows:

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

1. "Certificate of limited partnership" means the certificate referred to in NRS 88.350, and the certificate as amended or restated.

2. "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.

3. "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in NRS 88.450.

4. "Foreign limited partnership" means a partnership formed under the laws of any state other than this State and having as partners one or more general partners and one or more limited partners.

5. "Foreign registered limited-liability limited partnership" means a foreign limited-liability limited partnership:

(a) Formed pursuant to an agreement governed by the laws of another state; and

(b) Registered pursuant to and complying with NRS 88.570 to 88.605, inclusive, and 88.609.

6. "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

7. "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.

8. "Limited partnership" and "domestic limited partnership" mean a partnership formed by two or more persons under the laws of this State and having one or more general partners and one or more limited partners.

9. "Partner" means a limited or general partner.

10. "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

11. "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

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

13. "Registered limited-liability limited partnership" means a limited partnership:

(a) Formed pursuant to an agreement governed by this chapter; and

(b) Registered pursuant to and complying with NRS 88.350 to 88.415, inclusive, 88.606, 88.6065 and 88.607.

14. *"Registered agent" has the meaning ascribed to it in section 24 of this act.*

15. "Registered office" means the office maintained at the street address of the ~~resident agent~~.

~~15. "Resident agent" means the agent appointed by the limited partnership upon whom process or a notice or demand authorized by law to be served upon the limited partnership may be served.]~~ *registered agent.*

16. "Sign" means to affix a signature to a record.

17. "Signature" means a name, word, symbol or mark executed or otherwise adopted, or a record encrypted or similarly processed in whole or in part, by a person with the present intent to identify himself and adopt or accept a record. The term includes, without limitation, an electronic signature as defined in NRS 719.100.

18. "State" means a state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

19. "Street address" of a ~~[resident]~~ *registered agent* means the actual physical location in this State at which a ~~[resident]~~ *registered agent* is available for service of process.

Sec. 133. NRS 88.330 is hereby amended to read as follows:

88.330 1. Each limited partnership shall continuously maintain in this State:

(a) An office, which may but need not be a place of its business in this State, at which must be kept the records required by NRS 88.335 to be maintained; and

(b) A ~~[resident]~~ *registered agent.*

2. ~~[Every resident agent shall file a certificate in the Office of the Secretary of State, setting forth his street address where process may be served upon the limited partnership and his mailing address if different from the street address.]~~

3. ~~Within 30 days after changing the location of his office from one address to another in this State, a resident agent shall file a certificate with the Secretary of State setting forth the names of the limited partnerships represented by the agent, the address at which he has maintained the office for each of the limited partnerships, and the new address to which the office is transferred.]~~

4. ~~Within 30 days after changing the location of the office which contains records for a limited partnership, a general partner of the limited partnership shall file a certificate of a change in address with the Secretary of State which sets forth the name of the limited partnership, the previous address of the office which contains records and the new address of the office which contains records.]~~

Sec. 134. NRS 88.332 is hereby amended to read as follows:

88.332 1. ~~[A resident agent who desires to resign shall:]~~

(a) ~~File with the Secretary of State a signed statement in the manner provided pursuant to subsection 1 of NRS 78.097 that he is unwilling to continue to act as the resident agent of the limited partnership for the service of process; and~~

(b) ~~Pay to the Secretary of State the filing fee set forth in subsection 1 of NRS 78.097.]~~

~~➔ A resignation is not effective until the signed statement is filed with the Secretary of State.~~

~~2. The statement of resignation may contain a statement by the affected limited partnership appointing a successor resident agent for the limited partnership. A certificate of acceptance signed by the new agent, stating the full name, complete street address and, if different from the street address, mailing address of the new agent, must accompany the statement appointing the new agent.~~

~~3. Upon the filing of the statement with the Secretary of State, the capacity of the person as resident agent terminates. If the statement of resignation does not contain a statement by the limited partnership appointing a successor resident agent, the resigning agent shall immediately give written notice, by mail, to the limited partnership of the filing of the statement and the effect thereof. The notice must be addressed to a general partner of the partnership other than the resident agent.~~

~~4.] If a [designated resident agent dies, resigns or removes from the State,] registered agent resigns pursuant to section 37 of this act or if a commercial registered agent terminates its listing as a commercial registered agent pursuant to section 33 of this act, the limited partnership, [within 30 days thereafter,] before the effective date of the resignation or termination, shall file with the Secretary of State a [certificate of acceptance, signed by the new resident agent. The certificate must set forth the full name, complete street address and, if different from the street address, mailing address of the newly designated resident agent.~~

~~5.] statement of change of registered agent pursuant to section 34 of this act.~~

2. Each limited partnership which fails to ~~[file a certificate of acceptance signed by the new resident agent within 30 days after the death, resignation or removal of its resident agent as provided in subsection 4]~~ *comply with subsection 1* shall be deemed in default and is subject to the provisions of NRS 88.400 and 88.405.

3. *As used in this section, "commercial registered agent" has the meaning ascribed to it in section 5 of this act.*

Sec. 135. NRS 88.335 is hereby amended to read as follows:

88.335 1. A limited partnership shall keep at the office referred to in paragraph (a) of subsection 1 of NRS 88.330 the following:

(a) A current list of the full name and last known business address of each partner, separately identifying the general partners in alphabetical order and the limited partners in alphabetical order;

(b) A copy of the certificate of limited partnership and all certificates of amendment thereto, together with signed copies of any powers of attorney pursuant to which any certificate has been signed;

(c) Copies of the limited partnership's federal, state, and local income tax returns and reports, if any, for the 3 most recent years;

(d) Copies of any then effective written partnership agreements;

(e) Copies of any financial statements of the limited partnership for the 3 most recent years; and

(f) Unless contained in a written partnership agreement, a writing setting out:

(1) The amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner and which each partner has agreed to contribute;

(2) The times at which or events on the happening of which any additional contributions agreed to be made by each partner are to be made;

(3) Any right of a partner to receive, or of a general partner to make, distributions to a partner which include a return of all or any part of the partner's contribution; and

(4) Any events upon the happening of which the limited partnership is to be dissolved and its affairs wound up.

2. In lieu of keeping at an office in this State the information required in paragraphs (a), (c), (e) and (f) of subsection 1, the limited partnership may keep a statement with the ~~resident~~ *registered* agent setting out the name of the custodian of the information required in paragraphs (a), (c), (e) and (f) of subsection 1, and the present and complete post office address, including street and number, if any, where the information required in paragraphs (a), (c), (e) and (f) of subsection 1 is kept.

3. Records kept pursuant to this section are subject to inspection and copying at the reasonable request, and at the expense, of any partner during ordinary business hours.

Sec. 136. NRS 88.350 is hereby amended to read as follows:

88.350 1. In order to form a limited partnership, a certificate of limited partnership must be signed and filed in the Office of the Secretary of State. The certificate must set forth:

(a) The name of the limited partnership;

(b) The ~~address of the office which contains records and the name and address of the resident agent required to be maintained by NRS 88.330;~~ *information required by subsection 1 of section 31 of this act;*

(c) The name and business address of each organizer executing the certificate;

(d) The name and business address of each initial general partner;

(e) The latest date upon which the limited partnership is to dissolve; and

(f) Any other matters the organizers determine to include therein.

2. ~~[A certificate of acceptance of appointment of a resident agent, signed by the agent, must be filed with the certificate of limited partnership.~~

3.] A limited partnership is formed at the time of the filing of the certificate of limited partnership ~~[and the certificate of acceptance]~~ in the Office of the Secretary of State or at any later time specified in the certificate of limited partnership if ~~[, in either case,]~~ there has been substantial compliance with the requirements of this section.

Sec. 137. NRS 88.355 is hereby amended to read as follows:

88.355 1. A certificate of limited partnership is amended by filing a certificate of amendment thereto in the Office of the Secretary of State. The certificate must set forth:

- (a) The name of the limited partnership; and
- (b) The amendment.

2. Within 30 days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of the event or events must be filed:

- (a) The admission of a new general partner;
- (b) The withdrawal of a general partner; or
- (c) The continuation of the business under NRS 88.550 after an event of withdrawal of a general partner.

3. A general partner who becomes aware that any statement in a certificate of limited partnership was false when made or that any arrangements or other facts described, except the address of its office or the name or address of its ~~resident~~ registered agent, have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate.

4. A certificate of limited partnership may be amended at any time for any other proper purpose the general partners determine.

5. No person has any liability because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of any event referred to in subsection 2 if the amendment is filed within the 30-day period specified in subsection 2.

6. A certificate of amendment filed pursuant to this section is effective upon filing the certificate with the Secretary of State or upon a later date specified in the certificate, which must not be more than 90 days after the certificate is filed.

7. A restated certificate of limited partnership may be signed and filed in the same manner as a certificate of amendment. If the certificate alters or amends the certificate of limited partnership in any manner, it must be accompanied by a form prescribed by the Secretary of State setting forth which provisions of the certificate of limited partnership on file with the Secretary of State are being altered or amended.

Sec. 138. NRS 88.395 is hereby amended to read as follows:

88.395 1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

- (a) The name of the limited partnership;
- (b) The file number of the limited partnership, if known;
- (c) The names of all of its general partners;
- (d) The address, either residence or business, of each general partner;

~~(e) The [name and street address of its lawfully designated resident agent in this State]; information required by subsection 1 of section 31 of this act; and~~

~~(f) information required by subsection 1 of section 31 of this act; and~~

~~(e)~~ The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

➔ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied with the provisions of NRS 360.780 and which 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.

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of \$125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of \$125.

3. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of \$125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of \$175.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of \$75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the annual list. Failure of any limited partnership to receive a notice or form does not excuse it from the penalty imposed by NRS 88.400.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of NRS 88.355 and may not be substituted for filings submitted pursuant to NRS 88.355.

Sec. 139. NRS 88.405 is hereby amended to read as follows:

88.405 1. The Secretary of State shall notify, by providing written notice to its ~~resident~~ *registered* agent, each defaulting limited partnership. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the ~~resident~~ *registered* agent, may be provided electronically.

2. Immediately after the first day of the first anniversary of the month following the month in which filing was required, the certificate of the limited partnership is revoked.

3. The Secretary of State shall compile a complete list containing the names of all limited partnerships whose right to transact business has been forfeited.

4. The Secretary of State shall notify, by providing written notice to its ~~resident~~ *registered* agent, each limited partnership specified in subsection 3 of the revocation of its certificate. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the ~~resident~~ *registered* agent, may be provided electronically.

5. In case of revocation of the certificate and of the forfeiture of the right to transact business thereunder, all the property and assets of the defaulting domestic limited partnership are held in trust by the general partners, and the same proceedings may be had with respect thereto as for the judicial dissolution of a limited partnership. Any person interested may institute proceedings at any time after a forfeiture has been declared, but, if the Secretary of State reinstates the limited partnership, the proceedings must at once be dismissed and all property restored to the general partners.

Sec. 140. NRS 88.410 is hereby amended to read as follows:

88.410 1. Except as otherwise provided in subsections 3 and 4, 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; and

(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. 141. NRS 88.415 is hereby amended to read as follows:

88.415 The Secretary of State, for services relating to his official duties and the records of his office, shall charge and collect the following fees:

1. For filing a certificate of limited partnership, or for registering a foreign limited partnership, \$75.

2. For filing a certificate of registration of limited-liability limited partnership, or for registering a foreign registered limited-liability limited partnership, \$100.

3. For filing a certificate of amendment of limited partnership or restated certificate of limited partnership, \$175.

4. ~~{For filing a certificate of a change of location of the records office of a limited partnership or the office of its resident agent, or a designation of a new resident agent, \$60.~~

~~5.}~~ For certifying a copy of a certificate of limited partnership, an amendment to the certificate, or a certificate as amended, \$30 per certification.

~~{6.}~~ 5. For certifying an authorized printed copy of the limited partnership law, \$30.

~~{7.}~~ 6. For reserving a limited partnership name, or for signing, filing or certifying any other record, \$25.

~~{8.}~~ 7. For copies provided by the Office of the Secretary of State, \$2 per page.

~~{9.}~~ 8. For filing a certificate of cancellation of a limited partnership, \$75.

➤ Except as otherwise provided in this section, the fees set forth in NRS 78.785 apply to this chapter.

Sec. 142. NRS 88.575 is hereby amended to read as follows:

88.575 Before transacting business in this State, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall submit to the Secretary of State an application for registration as a foreign limited partnership, signed by a general partner. ~~{, and a signed certificate of acceptance of a resident agent.}~~ The application for registration must set forth:

1. The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this State;
2. The state and date of its formation;
3. The ~~[name and address of the resident agent whom the foreign limited partnership elects to appoint;]~~ *information required by subsection 1 of section 31 of this act;*
4. A statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process if the ~~[resident]~~ *registered* agent's authority has been revoked or if the ~~[resident]~~ *registered* agent cannot be found or served with the exercise of reasonable diligence;
5. The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership;
6. The name and business address of each general partner; and
7. The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this State is cancelled or withdrawn.

Sec. 143. NRS 88.591 is hereby amended to read as follows:

88.591 1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

- (a) The name of the foreign limited partnership;
- (b) The file number of the foreign limited partnership, if known;
- (c) The names of all its general partners;
- (d) The address, either residence or business, of each general partner;
- (e) The ~~[name and street address of its lawfully designated resident agent in this State;]~~ information required by subsection 1 of section 31 of this act;
and
- (f) ~~information required by subsection 1 of section 31 of this act; and~~
- ~~(e)~~ The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

- (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.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of \$125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of \$125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of \$75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign limited partnership, which is required to comply with the provisions of NRS 88.591 to 88.5945, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign limited partnership to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 88.591 to 88.5945, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date ~~[must]~~ shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 144. NRS 88.5935 is hereby amended to read as follows:

88.5935 1. The Secretary of State shall notify, by providing written notice to its ~~[resident]~~ *registered* agent, each foreign limited partnership deemed in default pursuant to NRS 88.593. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the ~~[resident]~~ *registered* agent, may be provided electronically.

2. Immediately after the last day of the month in which the anniversary date of the filing of the certificate of limited partnership occurs, the Secretary of State shall compile a complete list containing the names of all foreign limited partnerships whose right to transact business has been forfeited.

3. The Secretary of State shall notify, by providing written notice to its ~~[resident]~~ *registered* agent, each foreign limited partnership specified in subsection 2 of the forfeiture of its right to transact business. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the ~~[resident]~~ *registered* agent, may be provided electronically.

Sec. 145. NRS 88.594 is hereby amended to read as follows:

88.594 1. Except as otherwise provided in subsections 3 and 4, 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; *and*

(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. 146. NRS 88.606 is hereby amended to read as follows:

88.606 1. To become a registered limited-liability limited partnership, a limited partnership shall file with the Secretary of State a certificate of registration stating each of the following:

(a) The name of the limited partnership.

(b) The street address of its principal office.

(c) The ~~{name of the person designated as the resident agent of the limited partnership, the street address of the resident agent where process may be served upon the partnership and the mailing address of the resident agent if it is different from his street address.}~~ *information required by subsection 1 of section 31 of this act.*

(d) The name and business address of each organizer signing the certificate.

(e) The name and business address of each initial general partner.

(f) That the limited partnership thereafter will be a registered limited-liability limited partnership.

(g) Any other information that the limited partnership wishes to include.

2. The certificate of registration must be signed by the vote necessary to amend the partnership agreement or, in the case of a partnership agreement that expressly considers contribution obligations, the vote necessary to amend those provisions.

3. The Secretary of State shall register as a registered limited-liability limited partnership any limited partnership that submits a completed certificate of registration with the required fee.

4. The registration of a registered limited-liability limited partnership is effective at the time of the filing of the certificate of registration.

Sec. 147. Chapter 88A of NRS is hereby amended by adding thereto a new section to read as follows:

"Registered agent" has the meaning ascribed to it in section 24 of this act.

Sec. 148. NRS 88A.010 is hereby amended to read as follows:

88A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 88A.020 to 88A.110, inclusive, *and section 147 of this act* have the meanings ascribed to them in those sections.

Sec. 149. NRS 88A.060 is hereby amended to read as follows:

88A.060 "Registered office" means the office of a business trust maintained at the street address of its ~~{resident}~~ *registered agent*.

Sec. 150. NRS 88A.100 is hereby amended to read as follows:

88A.100 "Street address" of a ~~{resident}~~ *registered agent* means the actual physical location in this State at which a ~~{resident}~~ *registered agent* is available for service of process.

Sec. 151. NRS 88A.210 is hereby amended to read as follows:

88A.210 1. One or more persons may create a business trust by adopting a governing instrument and signing and filing with the Secretary of State a certificate of trust . ~~{and a certificate of acceptance of appointment signed by the resident agent of the business trust.}~~ The certificate of trust must set forth:

(a) The name of the business trust;

(b) The name and address, either residence or business, of at least one trustee;

(c) The ~~{name of the person designated as the resident agent for the business trust, the street address of the resident agent where process may be served upon the business trust and the mailing address of the resident agent if different from the street address;}~~ *information required by subsection 1 of section 31 of this act;*

(d) The name and address, either residence or business, of each person signing the certificate of trust; and

(e) Any other information the trustees determine to include.

2. Upon the filing of the certificate of trust ~~{and the certificate of acceptance}~~ with the Secretary of State and the payment to him of the required filing fee, the Secretary of State shall issue to the business trust a certificate that the required records with the required content have been filed.

From the date of that filing, the business trust is legally formed pursuant to this chapter.

Sec. 152. NRS 88A.500 is hereby amended to read as follows:

88A.500 1. ~~[Except during any period of vacancy described in NRS 88A.530, a]~~ A business trust shall have a ~~[resident]~~ *registered* agent who resides or is located in this State. A ~~[resident]~~ *registered* agent shall have a street address for the service of process and may have a mailing address such as a post office box, which may be different from the street address.

2. A business trust formed pursuant to this chapter that fails or refuses to comply with the requirements of this section is subject to a fine of not less than \$100 nor more than \$500, to be recovered with costs by the State, before any court of competent jurisdiction, by action at law prosecuted by the Attorney General or by the district attorney of the county in which the action or proceeding to recover the fine is prosecuted.

Sec. 153. NRS 88A.520 is hereby amended to read as follows:

88A.520 1. If the ~~[resident]~~ *registered* agent is a bank or an artificial person formed or organized pursuant to this title, it may:

(a) Act as the fiscal or transfer agent of a state, municipality, body politic or business trust, and in that capacity may receive and disburse money.

(b) Transfer, register and countersign certificates evidencing a beneficial owner's interest in a business trust, bonds or other evidences of indebtedness and act as agent of any business trust, foreign or domestic, for any purpose required by statute or otherwise.

2. All legal process and any demand or notice authorized by law to be served upon a business trust may be served upon its ~~[resident]~~ *registered* agent in the manner provided in subsection 2 of NRS 14.020. If a demand, notice or legal process, other than a summons and complaint, cannot be served upon the ~~[resident]~~ *registered* agent, it may be served in the manner provided in NRS 14.030. These manners of service are in addition to any other service authorized by law.

Sec. 154. NRS 88A.530 is hereby amended to read as follows:

88A.530 1. ~~[A resident agent who desires to resign shall:~~

~~(a) File with the Secretary of State a signed statement in the manner provided pursuant to subsection 1 of NRS 78.097 that he is unwilling to continue to act as the resident agent of the business trust for the service of process; and~~

~~(b) Pay to the Secretary of State the filing fee set forth in subsection 1 of NRS 78.097.~~

~~➔ A resignation is not effective until the signed statement is filed with the Secretary of State.~~

~~2. The statement of resignation may contain a statement of the affected business trust appointing a successor resident agent. A certificate of acceptance signed by the new resident agent, stating the full name, complete street address and, if different from the street address, mailing address of the~~

~~new resident agent, must accompany the statement appointing a successor resident agent.~~

~~3. Upon the filing of the statement of resignation with the Secretary of State, the capacity of the resigning person as resident agent terminates. If the statement of resignation contains no statement by the business trust appointing a successor resident agent, the resigning agent shall immediately give written notice, by mail, to the business trust of the filing of the statement of resignation and its effect. The notice must be addressed to a trustee of the business trust other than the resident agent.~~

~~4.] If its [resident agent dies, resigns or removes from the State,] registered agent resigns pursuant to section 37 of this act or if its commercial registered agent terminates its listing as a commercial registered agent pursuant to section 33 of this act, a business trust, [within 30 days thereafter,] before the effective date of the resignation or termination, shall file with the Secretary of State a [certificate of acceptance signed by a new resident agent. The certificate must set forth the full name and complete street address of the new resident agent, and may contain a mailing address, such as a post office box, different from the street address.~~

~~5.] statement of change of registered agent pursuant to section 34 of this act.~~

~~2. A business trust that fails to [file a certificate of acceptance signed by its new resident agent within 30 days after the death, resignation or removal of its former resident agent] comply with subsection 1 shall be deemed in default and is subject to the provisions of NRS 88A.630 to 88A.660, inclusive.~~

~~3. As used in this section, "commercial registered agent" has the meaning ascribed to it in section 5 of this act.~~

Sec. 155. NRS 88A.600 is hereby amended to read as follows:

88A.600 1. A business trust formed pursuant to this chapter shall, on or before the last day of the first month after the filing of its certificate of trust with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of trust with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list signed by at least one trustee that contains the name and street address of its lawfully designated resident agent in this State ~~and] ~~feff~~ at least one trustee [-] and the information required by subsection 1 of section 31 of this act.~~ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the business trust:

(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.

2. Upon filing:

(a) The initial list required by subsection 1, the business trust shall pay to the Secretary of State a fee of \$125.

(b) Each annual list required by subsection 1, the business trust shall pay to the Secretary of State a fee of \$125.

3. If a trustee of a business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the business trust or the resigning trustee shall pay to the Secretary of State a fee of \$75 to file the resignation.

4. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each business trust which is required to comply with the provisions of NRS 88A.600 to 88A.660, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of a business trust to receive the forms does not excuse it from the penalty imposed by law.

5. An annual list for a business trust not in default which is 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. 156. NRS 88A.640 is hereby amended to read as follows:

88A.640 1. The Secretary of State shall notify, by providing written notice to its ~~resident~~ *registered* agent, each business trust deemed in default pursuant to the provisions of this chapter. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the ~~resident~~ *registered* agent, may be provided electronically.

2. Immediately after the first day of the first anniversary of the month following the month in which the filing was required, the certificate of trust of the business trust is revoked and its right to transact business is forfeited.

3. The Secretary of State shall compile a complete list containing the names of all business trusts whose right to transact business has been forfeited.

4. The Secretary of State shall forthwith notify, by providing written notice to its ~~resident~~ *registered* agent, each business trust specified in subsection 3 of the revocation of its certificate of trust. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the ~~resident~~ *registered* agent, may be provided electronically.

5. If the certificate of trust is revoked and the right to transact business is forfeited, all the property and assets of the defaulting business trust must be held in trust by its trustees as for insolvent business trusts, and the same proceedings may be had with respect thereto as are applicable to insolvent business trusts. Any person interested may institute proceedings at any time after a forfeiture has been declared, but, if the Secretary of State reinstates the certificate of trust, the proceedings must at once be dismissed.

Sec. 157. NRS 88A.650 is hereby amended to read as follows:

88A.650 1. Except as otherwise provided in subsections 3 and 4, 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] 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. 158. NRS 88A.710 is hereby amended to read as follows:

88A.710 Before transacting business in this State, a foreign business trust shall register with the Secretary of State. In order to register, a foreign business trust shall submit to the Secretary of State an application for registration as a foreign business trust, signed by a trustee . ~~[- and a signed certificate of acceptance of a resident agent.]~~ The application for registration must set forth:

1. The name of the foreign business trust and, if different, the name under which it proposes to register and transact business in this State;

2. The state and date of its formation;

3. The ~~[name and address of the resident agent whom the foreign business trust elects to appoint;]~~ *information required by subsection 1 of section 31 of this act;*

4. The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign business trust; and

5. The name and address, either residence or business, of one trustee.

Sec. 159. NRS 88A.732 is hereby amended to read as follows:

88A.732 1. Each foreign business trust doing business in this State shall, on or before the last day of the first month after the filing of its

application for registration as a foreign business trust with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

- (a) The name of the foreign business trust;
- (b) The file number of the foreign business trust, if known;
- (c) The name of at least one of its trustees;
- (d) The address, either residence or business, of the trustee listed pursuant to paragraph (c):

(e) The ~~name and street address of its lawfully designated resident agent in this State;~~ information required by subsection 1 of section 31 of this act;
and

(f) ~~information required by subsection 1 of section 31 of this act; and~~
~~(e)~~ The signature of a trustee of the foreign business trust certifying that the list is true, complete and accurate.

2. Each list required to be filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign business trust:

- (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.

3. Upon filing:

- (a) The initial list required by this section, the foreign business trust shall pay to the Secretary of State a fee of \$125.
- (b) Each annual list required by this section, the foreign business trust shall pay to the Secretary of State a fee of \$125.

4. If a trustee of a foreign business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the foreign business trust or the resigning trustee shall pay to the Secretary of State a fee of \$75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, cause to be mailed to each foreign business trust which is required to comply with the provisions of NRS 88A.732 to 88A.738, inclusive, and which has not become delinquent, the blank forms to be completed and filed with him. Failure of any foreign business trust to receive the forms does not excuse it from the penalty imposed by the provisions of NRS 88A.732 to 88A.738, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign business trust not in default which is received by the Secretary of State more than 90 days before its due date ~~[must]~~ shall be deemed an amended list for the previous year and does not

satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 160. NRS 88A.736 is hereby amended to read as follows:

88A.736 1. The Secretary of State shall notify, by providing written notice to its ~~[resident]~~ *registered* agent, each foreign business trust deemed in default pursuant to NRS 88A.735. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the ~~[resident]~~ *registered* agent, may be provided electronically.

2. Immediately after the last day of the month in which the anniversary date of the filing of the certificate of trust occurs, the Secretary of State shall compile a complete list containing the names of all foreign business trusts whose right to transact business has been forfeited.

3. The Secretary of State shall notify, by providing written notice to its ~~[resident]~~ *registered* agent, each foreign business trust specified in subsection 2 of the forfeiture of its right to transact business. The written notice:

(a) Must include a statement indicating the amount of the filing fee, penalties incurred and costs remaining unpaid.

(b) At the request of the ~~[resident]~~ *registered* agent, may be provided electronically.

Sec. 161. NRS 88A.737 is hereby amended to read as follows:

88A.737 1. Except as otherwise provided in subsections 3 and 4, 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~~ 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. 162. NRS 88A.900 is hereby amended to read as follows:

88A.900 The Secretary of State shall charge and collect the following fees for:

1. Filing an original certificate of trust, or for registering a foreign business trust, \$75.

2. Filing an amendment or restatement, or a combination thereof, to a certificate of trust, \$175.

3. Filing a certificate of cancellation, \$75.

4. Certifying a copy of a certificate of trust or an amendment or restatement, or a combination thereof, \$30 per certification.

5. Certifying an authorized printed copy of this chapter, \$30.

6. Reserving a name for a business trust, \$25.

7. Signing a certificate of existence of a business trust which does not list the previous records relating to it, or a certificate of change in the name of a business trust, \$50.

8. Signing a certificate of existence of a business trust which lists the previous records relating to it, \$50.

9. ~~Filing a statement of change of the resident agent, \$60.~~

~~10.~~ Signing, certifying or filing any certificate or record not otherwise provided for in this section, \$50.

~~11.~~ 10. Examining and provisionally approving a record before the record is presented for filing, \$125.

~~12.~~ 11. Copying a record on file with him, for each page, \$2.

Sec. 163. NRS 89.256 is hereby amended to read as follows:

89.256 1. Except as otherwise provided in subsections 3 and 4, 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~~ 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]~~ 7 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. 164. Chapter 92A of NRS is hereby amended by adding thereto a new section to read as follows:

"Principal office" has the meaning ascribed to it in NRS 78.010.

Sec. 165. NRS 92A.005 is hereby amended to read as follows:

92A.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 92A.007 to 92A.097, inclusive, *and section 164 of this act* have the meanings ascribed to them in those sections.

Sec. 166. 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. 167. NRS 92A.270 is hereby amended to read as follows:

92A.270 1. Any undomesticated organization may become domesticated in this State as a domestic entity by:

(a) Paying to the Secretary of State the fees required pursuant to this title for filing the charter document; and

(b) Filing with the Secretary of State:

(1) Articles of domestication which must be signed by an authorized representative of the undomesticated organization approved in compliance with subsection 6; *and*

(2) The appropriate charter document for the type of domestic entity . ~~and~~

~~(3) A certificate of acceptance of appointment of a resident agent for the domestic entity which is signed by the resident agent.]~~

2. The articles of domestication must set forth the:

(a) Date when and the jurisdiction where the undomesticated organization was first formed, incorporated, organized or otherwise created;

(b) Name of the undomesticated organization immediately before filing the articles of domestication;

(c) Name and type of domestic entity as set forth in its charter document pursuant to subsection 1; and

(d) Jurisdiction that constituted the principal place of business or central administration of the undomesticated organization, or any other equivalent thereto pursuant to applicable law,

↳ immediately before filing the articles of domestication.

3. Upon filing the articles of domestication ~~and the certificate of acceptance of appointment of a resident agent~~ with the Secretary of State, and the payment of the requisite fee for filing the charter document of the domestic entity, the undomesticated organization is domesticated in this State as the domestic entity described in the charter document filed pursuant to subsection 1. The existence of the domestic entity begins on the date the undomesticated organization began its existence in the jurisdiction in which the undomesticated organization was first formed, incorporated, organized or otherwise created.

4. The domestication of any undomesticated organization does not affect any obligations or liabilities of the undomesticated organization incurred before its domestication.

5. The filing of the charter document of the domestic entity pursuant to subsection 1 does not affect the choice of law applicable to the undomesticated organization. From the date the charter document of the domestic entity is filed, the law of this State applies to the domestic entity to the same extent as if the undomesticated organization was organized and created as a domestic entity on that date.

6. Before filing articles of domestication, the domestication must be approved in the manner required by:

(a) The document, instrument, agreement or other writing governing the internal affairs of the undomesticated organization and the conduct of its business; and

(b) Applicable foreign law.

7. When a domestication becomes effective, all rights, privileges and powers of the undomesticated organization, all property owned by the undomesticated organization, all debts due to the undomesticated organization, and all causes of action belonging to the undomesticated organization are vested in the domestic entity and become the property of the domestic entity to the same extent as vested in the undomesticated organization immediately before domestication. The title to any real property vested by deed or otherwise in the undomesticated organization is not reverted or impaired by the domestication. All rights of creditors and all liens upon any property of the undomesticated organization are preserved unimpaired and all debts, liabilities and duties of an undomesticated organization that has been domesticated attach to the domestic entity resulting from the domestication and may be enforced against it to the same extent as if the debts, liability and duties had been incurred or contracted by the domestic entity.

8. When an undomesticated organization is domesticated, the domestic entity resulting from the domestication is for all purposes deemed to be the same entity as the undomesticated organization. Unless otherwise agreed by the owners of the undomesticated organization or as required pursuant to applicable foreign law, the domestic entity resulting from the domestication is not required to wind up its affairs, pay its liabilities or distribute its assets. The domestication of an undomesticated organization does not constitute the dissolution of the undomesticated organization. The domestication constitutes a continuation of the existence of the undomesticated organization in the form of a domestic entity. If, following domestication, an undomesticated organization that has become domesticated pursuant to this section continues its existence in the foreign country or foreign jurisdiction in which it was existing immediately before the domestication, the domestic entity and the undomesticated organization are for all purposes a single entity formed, incorporated, organized or otherwise created and existing pursuant to

the laws of this State and the laws of the foreign country or other foreign jurisdiction.

9. As used in this section, "undomesticated organization" means any incorporated organization, private law corporation, whether or not organized for business purposes, public law corporation, general partnership, registered limited-liability partnership, limited partnership or registered limited-liability limited partnership, proprietorship, joint venture, foundation, business trust, real estate investment trust, common-law trust or any other unincorporated business formed, organized, created or the internal affairs of which are governed by the laws of any foreign country or jurisdiction other than the United States, the District of Columbia or another state, territory, possession, commonwealth or dependency of the United States.

Sec. 168. NRS 92A.460 is hereby amended to read as follows:

92A.460 1. Except as otherwise provided in NRS 92A.470, within 30 days after receipt of a demand for payment, the subject corporation shall pay each dissenter who complied with NRS 92A.440 the amount the subject corporation estimates to be the fair value of his shares, plus accrued interest. The obligation of the subject corporation under this subsection may be enforced by the district court:

(a) Of the county where the corporation's ~~registered~~ principal office is located; ~~or~~

(b) *If the corporation's principal office is not located in this State, in Carson City; or*

(c) At the election of any dissenter residing or having its ~~registered~~ principal office in this State, of the county where the dissenter resides or has its ~~registered~~ principal office.

➡ The court shall dispose of the complaint promptly.

2. The payment must be accompanied by:

(a) The subject corporation's balance sheet as of the end of a fiscal year ending not more than 16 months before the date of payment, a statement of income for that year, a statement of changes in the stockholders' equity for that year and the latest available interim financial statements, if any;

(b) A statement of the subject corporation's estimate of the fair value of the shares;

(c) An explanation of how the interest was calculated;

(d) A statement of the dissenter's rights to demand payment under NRS 92A.480; and

(e) A copy of NRS 92A.300 to 92A.500, inclusive.

Sec. 169. NRS 92A.490 is hereby amended to read as follows:

92A.490 1. If a demand for payment remains unsettled, the subject corporation shall commence a proceeding within 60 days after receiving the demand and petition the court to determine the fair value of the shares and accrued interest. If the subject corporation does not commence the proceeding within the 60-day period, it shall pay each dissenter whose demand remains unsettled the amount demanded.

2. A subject corporation shall commence the proceeding in the district court of the county where its ~~registered~~ principal office is located. If the principal office of the subject corporation is ~~a foreign entity without a resident agent~~ not located in the State, it shall commence the proceeding in the county where the ~~registered~~ principal office of the domestic corporation merged with or whose shares were acquired by the foreign entity was located. *If the principal office of the subject corporation and the domestic corporation merged with or whose shares were acquired is not located in this State, the subject corporation shall commence the proceeding in the district court in Carson City.*

3. The subject corporation shall make all dissenters, whether or not residents of Nevada, whose demands remain unsettled, parties to the proceeding as in an action against their shares. All parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

4. The jurisdiction of the court in which the proceeding is commenced under subsection 2 is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers have the powers described in the order appointing them, or any amendment thereto. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

5. Each dissenter who is made a party to the proceeding is entitled to a judgment:

(a) For the amount, if any, by which the court finds the fair value of his shares, plus interest, exceeds the amount paid by the subject corporation; or

(b) For the fair value, plus accrued interest, of his after-acquired shares for which the subject corporation elected to withhold payment pursuant to NRS 92A.470.

Sec. 170. NRS 14.020 is hereby amended to read as follows:

14.020 1. Every corporation, miscellaneous organization described in chapter 81 of NRS, limited-liability company, limited-liability partnership, limited partnership, limited-liability limited partnership, business trust and municipal corporation created and existing under the laws of this State, any other state, territory or foreign government, or the Government of the United States, doing business in this State shall appoint and keep in this State a ~~resident~~ registered agent who resides or is located in this State, upon whom all legal process and any demand or notice authorized by law to be served upon it may be served in the manner provided in subsection 2. ~~[The corporation, miscellaneous organization, limited liability company, limited liability partnership, limited partnership, limited liability limited partnership, business trust or municipal corporation shall file with the Secretary of State a certificate of acceptance of appointment signed by its resident agent. The certificate must set forth the full name and street address of the resident agent. A certificate]~~ A statement of change of ~~resident~~ registered agent must be filed in the manner provided in ~~[title 7 of NRS]~~

section 34 of this act if the corporation, miscellaneous organization, limited-liability company, limited-liability partnership, limited partnership, limited-liability limited partnership, business trust or municipal corporation desires to change its ~~[resident agent. A certificate of name change of resident agent must be filed]~~ *registered agent. A registered agent must file a statement of change* in the manner provided in ~~[title 7 of NRS]~~ *section 35 or 36 of this act* if the ~~[name of a resident agent is changed as a result of a merger, conversion, exchange, sale, reorganization or amendment.]~~ *registered agent changes its name or address.*

2. All legal process and any demand or notice authorized by law to be served upon the corporation, miscellaneous organization, limited-liability company, limited-liability partnership, limited partnership, limited-liability limited partnership, business trust or municipal corporation may be served upon the ~~[resident]~~ *registered agent* personally or by leaving a true copy thereof with a person of suitable age and discretion at the *most recent street address* of the registered ~~[office]~~ *agent* shown on the ~~[current certificate of acceptance]~~ *information* filed with the Secretary of State ~~[]~~ *pursuant to sections 2 to 43, inclusive, of this act.*

3. Unless the ~~[registered office]~~ *street address of the registered agent* is the home residence of the ~~[resident]~~ *registered agent*, the ~~[registered office]~~ *street address of the registered agent* of a corporation, miscellaneous organization, limited-liability company, limited-liability partnership, limited partnership, limited-liability limited partnership, business trust or municipal corporation must be staffed during normal business hours by:

- (a) The ~~[resident]~~ *registered agent*; or
- (b) One or more natural persons who are:

(1) Of suitable age and discretion to receive service of legal process and any demand or notice authorized by law to be served upon the corporation, miscellaneous organization, limited-liability company, limited-liability partnership, limited partnership, limited-liability limited partnership, business trust or municipal corporation; and

(2) Authorized by the ~~[resident]~~ *registered agent* to receive service of legal process and any demand or notice authorized by law to be served upon the corporation, miscellaneous organization, limited-liability company, limited-liability partnership, limited partnership, limited-liability limited partnership, business trust or municipal corporation.

4. A corporation, miscellaneous organization, limited-liability company, limited-liability partnership, limited partnership, limited-liability limited partnership, business trust or municipal corporation that fails or refuses to comply with the requirements of subsection 3 is subject to a fine of not less than \$100 nor more than \$500 for each day of such failure or refusal to comply with the requirements of subsection 3, to be recovered with costs by the State, before any court of competent jurisdiction, by action at law prosecuted by the Attorney General or by the district attorney of the county in which the action or proceeding to recover the fine is prosecuted.

5. Subsection 2 provides an additional mode and manner of serving process, demand or notice and does not affect the validity of any other service authorized by law.

6. As used in this section:

(a) "Registered ~~office~~" ~~means the office maintained at the street address of the resident agent.~~ *agent" has the meaning ascribed to it in section 24 of this act.*

(b) "Street address" means the actual physical location in this State at which a ~~resident~~ registered agent is available for service of process.

Sec. 171. NRS 14.030 is hereby amended to read as follows:

14.030 1. If any artificial person described in NRS 14.020 fails to appoint a ~~resident~~ registered agent, or fails to file a ~~certificate of acceptance of appointment for 30 days after~~ *statement of change of registered agent pursuant to section 34 of this act before the effective date of a vacancy* ~~occurs~~ in the agency ~~;~~ *pursuant to section 33 or 37 of this act,* on the production of a certificate of the Secretary of State showing either fact, which is conclusive evidence of the fact so certified to be made a part of the return of service, or if the ~~registered office~~ *street address of the registered agent* of the artificial person is not staffed as required pursuant to NRS 14.020, which fact is to be made part of the return of service, the artificial person may be served with any and all legal process, or a demand or notice described in NRS 14.020, by delivering a copy to the Secretary of State, or, in his absence, to any deputy secretary of state, and such service is valid to all intents and purposes. The copy must:

(a) Include a specific citation to the provisions of this section. The Secretary of State may refuse to accept such service if the proper citation is not included.

(b) Be accompanied by a fee of \$10.

➡ The Secretary of State shall keep a copy of the legal process received pursuant to this section in his office for at least 1 year after receipt thereof and shall make those records available for public inspection during normal business hours.

2. In all cases of such service, the defendant has 40 days, exclusive of the day of service, within which to answer or plead.

3. Before such service is authorized, the plaintiff shall make or cause to be made and filed an affidavit setting forth the facts, showing that due diligence has been used to ascertain the whereabouts of the officers of the artificial person to be served, and the facts showing that direct or personal service on, or notice to, the artificial person cannot be had.

4. If it appears from the affidavit that there is a last known address of the artificial person or any known officers thereof, the plaintiff shall, in addition to and after such service on the Secretary of State, mail or cause to be mailed to the artificial person or to the known officer, at such address, by registered or certified mail, a copy of the summons and a copy of the complaint, and in

all such cases the defendant has 40 days after the date of the mailing within which to appear in the action.

5. This section provides an additional manner of serving process, and does not affect the validity of any other valid service.

Sec. 172. NRS 108.227 is hereby amended to read as follows:

108.227 1. In addition to the requirements of NRS 108.226, a copy of the notice of lien must be served upon the owner of the property within 30 days after recording the notice of lien, in one of the following ways:

(a) By personally delivering a copy of the notice of lien to the owner or ~~resident~~ *registered* agent of the owner;

(b) By mailing a copy of the notice of lien by certified mail return receipt requested to the owner at his place of residence or his usual place of business or to the ~~resident~~ *registered* agent of the owner at the address of the ~~resident~~ *registered* agent; or

(c) If the place of residence or business of the owner and the address of the ~~resident~~ *registered* agent of the owner, if applicable, cannot be determined, by:

(1) Fixing a copy of the notice of lien in a conspicuous place on the property;

(2) Delivering a copy of the notice of lien to a person there residing, if such a person can be found; and

(3) Mailing a copy of the notice of lien addressed to the owner at:

(I) The place where the property is located;

(II) The address of the owner as identified in the deed;

(III) The address identified in the records of the office of the county assessor; or

(IV) The address identified in the records of the county recorder of the county in which the property is located.

2. If there is more than one owner, failure to serve a copy of the notice of lien upon a particular owner does not invalidate a notice of lien if properly served upon another owner.

3. Each subcontractor who participates in the construction, improvement, alteration or repair of a work of improvement shall deliver a copy of each notice of lien required by NRS 108.226 to the prime contractor. The failure of a subcontractor to deliver the notice to the prime contractor is a ground for disciplinary proceedings pursuant to chapter 624 of NRS.

Sec. 173. NRS 273.010 is hereby amended to read as follows:

273.010 1. Every municipal corporation organized in another state, that enters this State to do business, shall, before commencing work or doing any business in this State, file in the Office of the Secretary of State:

(a) A certified copy of its charter, or of the statute or statutes, or legislative, executive or governmental acts, or other instruments of authority by which it was created; and

(b) ~~[A certificate of acceptance of appointment executed by the resident agent of the corporation.]~~ *The information required by subsection 1 of section 31 of this act.*

2. A certified copy of the charter, papers or other instruments and the ~~[certificate of acceptance,]~~ *information required by subsection 1 of section 31 of this act*, certified by the Secretary of State of this State, must also be filed in the office of the county clerk of the county where the principal place of business of the municipality in this State is located.

Sec. 174. NRS 273.050 is hereby amended to read as follows:

273.050 Every foreign municipal corporation owning property or doing business in this State shall appoint and keep in this State a ~~[resident]~~ registered agent as provided in NRS 14.020.

Sec. 175. NRS 293.128 is hereby amended to read as follows:

293.128 1. To qualify as a major political party, any organization must, under a common name:

(a) On January 1 preceding any primary election, have been designated as a political party on the applications to register to vote of at least 10 percent of the total number of registered voters in this State; or

(b) File a petition with the Secretary of State not later than the last Friday in April before any primary election signed by a number of registered voters equal to or more than 10 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.

2. If a petition is filed pursuant to paragraph (b) of subsection 1, the names of the voters need not all be on one document, but each document of the petition must be verified by the circulator thereof to the effect that the signers are registered voters of this State according to his best information and belief and that the signatures are genuine and were signed in his presence. Each document of the petition must bear the name of a county, and only registered voters of that county may sign the document. The documents which are circulated for signature must then be submitted for verification pursuant to NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last Friday in April preceding a primary election.

3. In addition to the requirements set forth in subsection 1, each organization which wishes to qualify as a political party must file with the Secretary of State a certificate of existence which includes the:

(a) Name of the political party;
(b) Names and addresses of its officers;
(c) Names of the members of its executive committee; and
(d) ~~[Name of the person who is authorized by the party to act as resident agent in this State.]~~ *The information required by subsection 1 of section 31 of this act.*

4. A political party shall file with the Secretary of State an amended certificate of existence within 5 days after any change in the information contained in the certificate.

Sec. 176. NRS 294A.230 is hereby amended to read as follows:

294A.230 1. Each committee for political action shall, before it engages in any activity in this State, register with the Secretary of State on forms supplied by him.

2. The form must require:

- (a) The name of the committee;
- (b) The purpose for which it was organized;
- (c) The names, addresses and telephone numbers of its officers;
- (d) If the committee for political action is affiliated with any other organizations, the name, address and telephone number of each organization;
- (e) The ~~[name, address and telephone number of its resident agent,]~~ *information required by subsection 1 of section 31 of this act and the telephone number of the registered agent appointed pursuant this paragraph;* and

(f) Any other information deemed necessary by the Secretary of State.

3. A committee for political action shall file with the Secretary of State an amended form for registration within 30 days after any change in the information contained in the form for registration.

4. The Secretary of State shall include on his Internet website the information required pursuant to subsection 2.

Sec. 177. NRS 294A.240 is hereby amended to read as follows:

294A.240 Each committee for political action shall appoint and keep in this State a ~~[resident]~~ *registered agent, as provided in NRS 14.020*, who must be a natural person who resides in this State.

Sec. 178. NRS 294A.250 is hereby amended to read as follows:

294A.250 Each committee for the recall of a public officer shall register with the Secretary of State, on a form provided by him. Each form must include:

- 1. The name of the committee;
- 2. The purpose for which it was organized;
- 3. The names and addresses of its officers; and
- 4. If the committee is organized and located outside this State, ~~[the name and address of its resident agent,]~~ *the information required by subsection 1 of section 31 of this act.*

Sec. 179. NRS 294A.260 is hereby amended to read as follows:

294A.260 Each committee for the recall of a public officer which is organized and located outside this State shall appoint and keep in this State a ~~[resident]~~ *registered agent, as provided in NRS 14.020*, who must be a natural person residing in this State.

Sec. 180. NRS 370.665 is hereby amended to read as follows:

370.665 1. A manufacturer of tobacco products whose cigarettes are sold in this State, whether or not directly or through a distributor, retailer or similar intermediary or intermediaries shall, not later than April 30 of each year, execute and deliver to the Attorney General and the Department, on a form provided by the Department, a certification which certifies under

penalty of perjury that, as of the date of that certification, the manufacturer of tobacco products is either:

- (a) A participating manufacturer; or
- (b) In full compliance with subsection 2 of NRS 370A.140, including any quarterly installment payments required pursuant to NRS 370.690.

2. Except as otherwise provided in NRS 370.670:

(a) A participating manufacturer shall include in its certification pursuant to this section a list of its brand families. The participating manufacturer shall update that list at least 30 calendar days before it adds to or modifies its brand families by executing and delivering a supplemental certification to the Attorney General and the Department.

(b) A nonparticipating manufacturer shall, in its certification pursuant to this section:

(1) Include:

(I) A list of all of its brand families and the number of units sold for each brand family that were sold in the State during the preceding calendar year; and

(II) A list of all of its brand families that have been sold in the State at any time during the current calendar year;

(2) Indicate, by an asterisk, any brand family sold in the State during the preceding calendar year that is no longer being sold in the State as of the date of the certification; and

(3) Identify, by name and address, any other manufacturer of those brand families in the preceding or current calendar year.

↪ A nonparticipating manufacturer shall update the information required by this paragraph at least 30 calendar days before it adds to or modifies its brand families by executing and delivering a supplemental certification to the Attorney General and the Department.

3. In addition to the requirements of subsection 2, the certification of a nonparticipating manufacturer pursuant to this section must certify:

(a) That the nonparticipating manufacturer is registered to do business in the State or has appointed ~~for a resident~~ *an* agent for service of process and provided notice thereof as required by NRS 370.680;

(b) That the nonparticipating manufacturer has:

(1) Established and continues to maintain a qualified escrow fund; and

(2) Executed a qualified escrow agreement governing the qualified escrow fund that has been reviewed and approved by the Attorney General;

(c) That the nonparticipating manufacturer is in full compliance with chapter 370A of NRS and any regulations adopted pursuant thereto;

(d) The name, address and telephone number of the financial institution where the nonparticipating manufacturer has established the qualified escrow fund required pursuant to chapter 370A of NRS and any regulations adopted pursuant thereto;

(e) The account number of that qualified escrow fund and any subaccount number for this State;

(f) The amount the nonparticipating manufacturer placed in that qualified escrow fund for cigarettes sold in the State during the preceding calendar year, the date and amount of each such deposit, and such evidence or verification as may be deemed necessary by the Department to confirm the information required by this paragraph; and

(g) The amount and date of any withdrawal or transfer of money the nonparticipating manufacturer made at any time from that qualified escrow fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to chapter 370A of NRS and any regulations adopted pursuant thereto.

Sec. 181. NRS 463.311 is hereby amended to read as follows:

463.311 The Commission may issue an emergency order for suspension, limitation or conditioning of a license, registration, finding of suitability, pari-mutuel license or prior approval, or may issue an emergency order requiring a licensed gaming establishment to keep an individual licensee from the premises of the licensed gaming establishment or not to pay such licensee any remuneration for services or any profits, income or accruals on his investment in the licensed gaming establishment in the following manner:

1. An emergency order may be issued only when the Commission believes that:

(a) There has been a violation of subsection 2 of NRS 463.360 or NRS 465.083;

(b) Such action is necessary to prevent a violation of NRS 465.083;

(c) There has been a violation of subsection 1 of NRS 463.160; or

(d) Such action is necessary for the immediate preservation of the public peace, health, safety, morals, good order or general welfare.

2. The emergency order must set forth the grounds upon which it is issued, including a statement of facts constituting the alleged emergency necessitating such action.

3. An emergency order may be issued only with the approval of and upon signature by not less than three members of the Commission.

4. The emergency order is effective immediately upon issuance and service upon the licensee or ~~resident~~ *registered* agent of the licensee or, in cases involving registrations, findings of suitability, pari-mutuel licenses or any prior approval, upon issuance and service upon the person or entity involved or ~~resident~~ *registered* agent of the entity involved. The emergency order may suspend, limit, condition or take other action in relation to the license of one or more persons in an operation without affecting other individual licensees or the licensed gaming establishment. The emergency order remains effective until further order of the Commission or final disposition of the case.

5. Within 5 days after issuance of an emergency order, the Commission shall cause a complaint to be filed and served upon the person or entity involved in accordance with the provisions of NRS 463.312.

6. Thereafter, the person or entity against whom the emergency order has been issued and served is entitled to a hearing before the Commission in accordance with NRS 463.312 to 463.3145, inclusive, and to judicial review of the decision and order of the Commission thereon in accordance with NRS 463.315 to 463.318, inclusive.

Sec. 182. NRS 519A.190 is hereby amended to read as follows:

519A.190 A person who desires to engage in an exploration project must:

1. File with the Division, upon a form approved by it, an application for a permit. The application must include:

(a) The name and address of the applicant and, if a corporation or other business entity, the name and address of its principal officers and its ~~resident~~ registered agent for service of process;

(b) An exploration map or sketch in sufficient detail to enable the Division to locate the area to be explored and to determine whether significant environmental problems are likely to result;

(c) The kinds of prospecting and excavation techniques that will be used in the exploration project; and

(d) Any other information required by the regulations adopted by the Commission pursuant to NRS 519A.160.

2. Pay to the Division the application fee established in the regulations adopted by the Commission pursuant to NRS 519A.160.

3. Agree in writing to assume responsibility for the reclamation of any surface area damaged as a result of the exploration project.

4. Not be in default of any other obligation relating to reclamation pursuant to this chapter.

5. File with the Division a bond or other surety in a form approved by the Administrator and in an amount required by the regulations adopted by the Commission pursuant to NRS 519A.160.

Sec. 183. NRS 519A.210 is hereby amended to read as follows:

519A.210 A person who desires to engage in a mining operation must:

1. File with the Division, upon a form approved by it, an application for a permit for each location at which he will conduct operations. The application must include:

(a) The name and address of the applicant and, if a corporation or other business entity, the name and address of its principal officers and its ~~resident~~ registered agent for service of process;

(b) A completed checklist developed by the Division pursuant to NRS 519A.220; and

(c) Any other information required by the regulations adopted by the Commission pursuant to NRS 519A.160.

2. Pay to the Division the application fee established in the regulations adopted by the Commission pursuant to NRS 519A.160.

3. Agree in writing to assume responsibility for the reclamation of any land damaged as a result of the mining operation.

4. Not be in default of any other obligation relating to reclamation pursuant to this chapter.

5. File with the Division a bond or other surety in a form and amount required by the regulations adopted by the Commission pursuant to NRS 519A.160.

6. File with the Division of Minerals of the Commission on Mineral Resources a copy of the plan for reclamation which is filed with the application pursuant to subsection 1, on the same day the application is filed with the Division.

Sec. 184. NRS 598.767 is hereby amended to read as follows:

598.767 An organization shall file with the Division ~~for a designation and acceptance of~~ the information required by subsection 1 of section 31 of this act and continuously maintain a ~~resident~~ registered agent for service of legal process.

Sec. 185. NRS 616B.398 is hereby amended to read as follows:

616B.398 An association of self-insured public or private employers shall be deemed to have appointed the Commissioner as its ~~resident~~ agent to receive any initial legal process authorized by law to be served upon the association for as long as the association is obligated to pay any compensation under chapters 616A to 616D, inclusive, or chapter 617 of NRS.

Sec. 186. NRS 616B.679 is hereby amended to read as follows:

616B.679 1. Each application must include:

(a) The applicant's name and title of his position with the employee leasing company.

(b) The applicant's age, place of birth and social security number.

(c) The applicant's address.

(d) The business address of the employee leasing company.

(e) The business address of the ~~resident~~ registered agent of the employee leasing company, if the applicant is not the ~~resident~~ registered agent.

(f) If the applicant is a:

(1) Partnership, the name of the partnership and the name, address, age, social security number and title of each partner.

(2) Corporation, the name of the corporation and the name, address, age, social security number and title of each officer of the corporation.

(g) Proof of:

(1) Compliance with the provisions of NRS 360.780.

(2) The payment of any premiums for industrial insurance required by chapters 616A to 617, inclusive, of NRS.

(3) The payment of contributions or payments in lieu of contributions required by chapter 612 of NRS.

(4) Insurance coverage for any benefit plan from an insurer authorized pursuant to title 57 of NRS that is offered by the employee leasing company to its employees.

(h) Any other information the Administrator requires.

2. Each application must be notarized and signed under penalty of perjury:

- (a) If the applicant is a sole proprietorship, by the sole proprietor.
- (b) If the applicant is a partnership, by each partner.
- (c) If the applicant is a corporation, by each officer of the corporation.

3. An applicant shall submit to the Administrator any change in the information required by this section within 30 days after the change occurs. The Administrator may revoke the certificate of registration of an employee leasing company which fails to comply with the provisions of NRS 616B.670 to 616B.697, inclusive.

4. If an insurer cancels an employee leasing company's policy, the insurer shall immediately notify the Administrator in writing. The notice must comply with the provisions of NRS 687B.310 to 687B.355, inclusive, and must be served personally on or sent by first-class mail or electronic transmission to the Administrator.

Sec. 187. NRS 628.440 is hereby amended to read as follows:

628.440 1. This chapter does not prohibit any person from serving as an employee of, or an assistant to, a certified public accountant or registered public accountant who holds a live permit, or a partnership, corporation or limited-liability company composed of certified public accountants or registered public accountants registered pursuant to NRS 628.340, 628.343, 628.345, 628.360, 628.363 or 628.365 if the employee or assistant does not issue any accounting or financial statement over his name.

2. The Board may adopt regulations providing for the issuance of temporary permits to persons who do not hold live permits and do not have a registered office or residence in this State, or to partnerships, corporations and limited-liability companies which are not registered and have no registered office, to permit those persons, partnerships, corporations and limited-liability companies to fulfill specific engagements or employments in this State. A temporary permit:

- (a) Is valid for no more than 6 months;
- (b) Covers only one engagement; and
- (c) May not be issued to any person unless he is a certified public accountant or registered public accountant of another state or jurisdiction of the United States approved by the Board, or to any partnership, corporation or limited-liability company unless all of the partners, shareholders or members thereof are certified public accountants or registered public accountants of another state or a jurisdiction of the United States approved by the Board.

3. Each person, partnership, corporation and limited-liability company applying for a temporary permit shall file with the Board a designation and acceptance of ~~a resident~~ *an agent* for service of legal process and shall pay a fee established by the Board by regulation before commencing work for a client.

4. The person, partner, shareholder or member who is responsible for the conduct of the engagement shall be deemed to be personally engaged in the practice of public accounting in this State, and must meet all requirements of NRS 628.310 and requirements for continuing education.

5. A person who holds a temporary permit is subject to all of the provisions of this chapter relating to discipline. The Board may refuse to act upon an application for further permits for a period of time set by the Board, or may refuse to issue a temporary permit to any person, partnership corporation or limited-liability company if disciplinary proceedings are pending in any jurisdiction.

Sec. 188. NRS 662.235 is hereby amended to read as follows:

662.235 1. Any bank organized under this title may state in its articles of incorporation that it will carry on a trust company business in connection with the banking business, and in addition to the powers conferred upon banks may:

(a) Act as trustee under any mortgage or bond of any person, firm or corporation, or of any municipality or body politic.

(b) Accept and execute any municipal, corporate or individual trust not inconsistent with the laws of this State.

(c) Act under the order or appointment of any court as guardian, commissioner, receiver or trustee.

(d) Act as executor or trustee under any will.

(e) Act as fiscal or transfer agent of any state, municipality, body politic or corporation, and in a capacity to receive and disburse money and register, transfer and countersign certificates of stock, bonds and other evidences of indebtedness.

(f) Act as local or ~~resident~~ *registered* agent of foreign corporations.

2. Any such bank holding any asset as a fiduciary shall:

(a) Segregate all such assets from any other assets of the bank and from the assets of any other trust, except as may be expressly provided otherwise by law or by the writing creating the trust.

(b) Record such assets in a separate set of books maintained for fiduciary activities.

Sec. 189. NRS 669.080 is hereby amended to read as follows:

669.080 1. This chapter does not apply to a person who:

(a) Does business under the laws of this State, the United States or another state relating to banks, savings banks, savings and loan associations or thrift companies, but if the business conducted in this State is not subject to supervision by a regulatory authority of another jurisdiction, the person must be licensed pursuant to this chapter;

(b) Is appointed as a fiduciary pursuant to NRS 662.245;

(c) Is acting in the performance of his duties as an attorney at law;

(d) Acts as a trustee under a deed of trust;

(e) Acts as a ~~resident~~ *registered* agent for a domestic or foreign corporation, limited-liability company, limited partnership or limited-liability partnership;

(f) Acts as a trustee of a trust holding real property for the primary purpose of facilitating any transaction with respect to real estate if he is not regularly engaged in the business of acting as a trustee for such trusts;

(g) Engages in the business of a collection agency pursuant to chapter 649 of NRS;

(h) Engages in the business of an escrow agency, escrow agent or escrow officer pursuant to the provisions of chapter 645A or 692A of NRS;

(i) Acts as a trustee of a trust created for charitable or nonprofit purposes if he is not regularly engaged in the business of acting as trustee for such trusts;

(j) Receives money or other property as a real estate broker licensed under chapter 645 of NRS on behalf of a principal;

(k) Engages in transactions as a broker-dealer or sales representative pursuant to chapter 90 of NRS;

(l) Acts as a fiduciary under a court trust;

(m) Does business as an insurer authorized to issue policies of life insurance and annuities or endowment contracts in this State and is subject to regulation and control of the Commissioner of Insurance; or

(n) Acts as a fiduciary if:

(1) The fiduciary relationship is not one of his principal occupations; or

(2) He serves as a fiduciary for a relative by blood or marriage.

2. A bank, savings bank, savings and loan association or thrift company claiming an exemption from this chapter pursuant to paragraph (a) of subsection 1 must notify the Commissioner of Financial Institutions of its intention to engage in the business of a trust company in this State and present proof satisfactory to the Commissioner of Financial Institutions that its fiduciary activities in this State will be subject to regulation by another jurisdiction.

Sec. 190. NRS 669.210 is hereby amended to read as follows:

669.210 1. Each licensed trust company may:

(a) Act as trustee under any mortgage or bond of any person or of any municipality or body politic.

(b) Accept and execute any municipal or corporate or individual trust not inconsistent with the laws of this State.

(c) Act under the order or appointment of any court as guardian, administrator, receiver or trustee.

(d) Act as executor or trustee under any will.

(e) Act as fiscal or transfer agent of any state, municipality, body politic or corporation, and in such capacity receive and disburse money and register, transfer and countersign certificates of stock, bonds and other evidences of indebtedness.

(f) Act as local or ~~resident~~ *registered* agent of foreign corporations.

(g) Accept and execute any trust business permitted by any law.

(h) Acquire the fiduciary rights, powers, duties and liabilities of a bank, savings and loan association, thrift company, trust company or credit union licensed pursuant to titles 55 and 56 of NRS, and upon the effective date of such an acquisition, the fiduciary rights, powers, duties and liabilities of the bank, savings and loan association, thrift company, trust company or credit union vest in and must be performed by the acquiring trust company.

(i) Do and perform all acts necessary to exercise the powers enumerated in this subsection and authorized by this chapter and any other applicable laws of this State.

2. A trust company may not engage in any banking business by accepting deposits or making loans.

Sec. 191. NRS 678.344 is hereby amended to read as follows:

678.344 The Commissioner shall issue a certificate of authority to a foreign credit union if he is satisfied that:

1. The members of the credit union to be served in this State are adequately protected by any form of security which is comparable to that required of credit unions organized under the provisions of this chapter.

2. The officer who supervises the credit union in the state in which it was organized has authorized it to do business in Nevada and agrees to furnish, upon request, copies of reports relating to the credit union.

3. The members to be served in this State have a need for the service and adequate service is not available through existing credit unions.

4. A ~~resident~~ registered agent has been designated.

5. The state in which the credit union was organized issues comparable authorization to credit unions organized under the provisions of this chapter.

Sec. 192. NRS 696B.260 is hereby amended to read as follows:

696B.260 A certified copy of any order to show cause issued under NRS 696B.250, and a copy of the petition upon which the order is made ~~shall~~, must be served upon the insurer by delivering the same to its president, vice president, secretary, treasurer, director, ~~resident~~ agent for service of process, or to its managing agent, or attorney-in-fact, ~~if~~ if a reciprocal insurer. ~~It~~ If no such officer or functionary can readily be found in this State, then such process may be served upon the insurer by service thereof upon the Commissioner pursuant to NRS 680A.250 and 680A.260, and in which case the additional 10 days provided by subsection 3 of NRS 680A.260 ~~shall~~ does not apply.

Sec. 193. NRS 78.095, 78.110, 78.165, 86.125, 86.235, 88.331, 88A.070, 88A.510, and 88A.540 are hereby repealed.

Sec. 194. The amendatory provisions of this act do not affect an action or proceeding commenced or right accrued before July 1, 2007.

Sec. 195. This act becomes effective on July 1, 2007.

LEADLINES OF REPEALED SECTIONS

78.095 Change of address of resident agent and registered office.

78.110 Resident agent: Revocation of appointment; change of name.

78.165 Addresses of officers and directors required; failure to file.
 86.125 "Resident agent" defined.
 86.235 Resident agent: Revocation of appointment; change of name.
 88.331 Resident agent: Revocation of appointment; change of name.
 88A.070 "Resident agent" defined.
 88A.510 Change of address.
 88A.540 Revocation of appointment; change of name.
 Senator Care moved the adoption of the amendment.
 Remarks by Senator Care.
 Amendment adopted.
 Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 293.

Bill read second time.

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

Amendment No. 327.

"SUMMARY—Revises provisions governing drivers who are ~~[16 or 17]~~ *less than 18* years of age. (BDR 43-6)"

"AN ACT relating to motor vehicles; *revising certain restrictions imposed on driver's licenses held by minors*; providing that *under certain circumstances* a parent or legal guardian of a ~~[person who is 16 or 17 years of age]~~ *minor* who commits certain ~~[motor vehicle]~~ *traffic* violations ~~[after obtaining a driver's license is liable to pay the fine or penalties imposed for such violations and]~~ *is liable for the monetary penalties and restitution imposed on the minor for the violations; providing that such a parent or legal guardian* may be required to perform community service if unable to pay the ~~[fine or]~~ *monetary penalties or restitution* because of financial hardship; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits a person who is 16 or 17 years of age who obtains a driver's license from transporting a passenger under 18 years of age who is not a member of his immediate family during the first 3 months after the license is issued. (NRS 483.2523) Section 1 of this bill increases from 3 months to 6 months the time during which a person who is 16 or 17 years of age who obtains a driver's license must abide by this provision.

~~[Existing law also prohibits a licensed driver who is 16 or 17 years of age from driving between the hours of 10 p.m. and 5 a.m. unless he is driving to or from a scheduled event. (NRS 484.466) This bill makes a]~~ *Under existing law, if a child is adjudicated delinquent for committing certain unlawful acts, the juvenile court may hold the parent or legal guardian [of such a driver] of the child liable for [the fine imposed if the driver violates either of these provisions and] any monetary penalties and restitution imposed on the child. (Chapter 62E of NRS) Sections 3 and 4 of this bill require the juvenile court to hold the parent or legal guardian of a child liable for any monetary*

penalties and restitution imposed on the child if the parent or guardian knowingly and willfully allows the child to operate a motor vehicle without a valid driver's license or instruction permit or in violation of any restrictions imposed on a valid driver's license or instruction permit held by the child. This bill also provides that a court may order the parent or legal guardian to perform community service if the parent or legal guardian is unable to pay the ~~fine or~~ monetary penalties or restitution because of financial hardship.

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

Section 1. NRS 483.2523 is hereby amended to read as follows:

483.2523 1. A person to whom a driver's license is issued pursuant to NRS 483.2521 shall not, during the first ~~{3}~~ 6 months after the date on which the driver's license is issued, transport as a passenger a person who is under 18 years of age, unless the person is a member of his immediate family.

2. A person who violates the provisions of this section:

(a) For a first offense, must be ordered to comply with the provisions of this section for 6 months after the date on which the driver's license is issued.

(b) For a second or subsequent offense, must be ordered to:

(1) Pay a fine in an amount not to exceed \$250;

(2) Comply with the provisions of this section for such additional time as determined by the court; or

(3) Both pay such a fine and comply with the provisions of this section for such additional time as determined by the court.

3. A violation of this section:

(a) Is not a moving traffic violation for the purposes of NRS 483.473; and

(b) Is not grounds for suspension or revocation of the driver's license for the purposes of NRS 483.360.

~~f 4. If the parent or legal guardian of a person to whom a driver's license is issued pursuant to NRS 483.2521 knowingly and willfully allows the person to operate a motor vehicle in violation of this section, the parent or legal guardian is liable for all fines and penalties imposed against the person. If the parent or legal guardian is unable to pay the fine and penalties resulting from a violation of this section because of financial hardship, the court may require the parent or legal guardian to perform community service.~~

Sec. 2. ~~NRS 484.466 is hereby amended to read as follows:~~

~~484.466 1. A person to whom a driver's license has been issued pursuant to NRS 483.2521 shall not operate a motor vehicle between the hours of 10 p.m. and 5 a.m. unless he is operating the vehicle to drive to or from a scheduled event. A peace officer shall not issue a citation to a person for operating a vehicle in violation of this section if the person provides evidence satisfactory to the peace officer that the reason that the person is operating the vehicle between the hours of 10 p.m. and 5 a.m. is because he is driving to or from a scheduled event.~~

~~2. A peace officer shall not stop a motor vehicle for the sole purpose of determining whether the driver of the vehicle is violating subsection 1. A citation may be issued for a violation of subsection 1 only if the violation is discovered when the vehicle is halted or its driver is arrested for another violation or offense.~~

~~3. If the parent or legal guardian of a person to whom a driver's license is issued pursuant to NRS 483.2521 knowingly and willfully allows the person to operate a motor vehicle in violation of this section, the parent or legal guardian is liable for all fines and penalties imposed against the person. If the parent or legal guardian is unable to pay the fine and penalties resulting from a violation of this section because of financial hardship, the court may require the parent or legal guardian to perform community service. (Deleted by amendment.)~~

Sec. 3. Chapter 62E of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the juvenile court:

(a) Adjudicates a child delinquent for the unlawful act of operating a motor vehicle without a valid driver's license or instruction permit for the type or class of vehicle being driven or in violation of any restrictions imposed on a valid driver's license or instruction permit held by the child; and

(b) Finds that the parent or guardian of the child knowingly and willfully allowed the child to operate the vehicle without a valid driver's license or instruction permit for the type or class of vehicle being driven or in violation of any restrictions imposed on a valid driver's license or instruction permit held by the child,

the juvenile court shall order the parent or guardian of the child to be held jointly and severally liable with the child for all fines, fees, assessments and other monetary penalties and any restitution imposed on the child for the unlawful act and any other traffic offense committed by the child while operating the vehicle, including, without limitation, any other traffic offense in violation of chapter 483 or 484 of NRS.

2. If, because of financial hardship, the parent or guardian is unable to pay any fine, fee, assessment or other monetary penalty or any restitution that the juvenile court imposes on the parent or guardian pursuant to this section, the juvenile court may order the parent or guardian to perform community service.

3. As used in this section, "juvenile court" means:

(a) The juvenile court; or

(b) The justice court or municipal court if the juvenile court has transferred the case and record to the justice court or municipal court pursuant to NRS 62B.380.

Sec. 4. NRS 62E.500 is hereby amended to read as follows:

62E.500 1. The provisions of NRS 62E.500 to 62E.730, inclusive, and section 3 of this act:

(a) Apply to the disposition of a case involving a child who is adjudicated delinquent.

(b) Except as otherwise provided in NRS 62E.700 ~~[and section 3 of this act]~~, do not apply to the disposition of a case involving a child who is found to have committed a minor traffic offense.

2. If a child is adjudicated delinquent:

(a) The juvenile court may issue any orders or take any actions set forth in NRS 62E.500 to 62E.730, inclusive, and section 3 of this act that the juvenile court deems proper for the disposition of the case; and

(b) If required by a specific statute, the juvenile court shall issue the appropriate orders or take the appropriate actions set forth in the statute.

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 302.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 356.

"SUMMARY—Revises provisions governing credit cards. (BDR 8-1173)"

"AN ACT relating to credit cards; ~~prohibits~~ prohibiting an issuer of a credit card from increasing the interest rate charged to the cardholder based upon a late payment by the cardholder to another creditor; providing that an issuer of a credit card may not prohibit a merchant from offering certain discounts; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law governs issuers of credit cards. (Chapter 97A of NRS) ~~[This]~~ Section 2 of this bill prohibits an issuer from increasing the interest rate charged to a cardholder based upon the late payment by the cardholder to another issuer or creditor of the cardholder ~~[This bill]~~ that is not an affiliate or subsidiary of the issuer or creditor. Section 2 also prohibits an issuer from including in a contract or agreement relating to a credit card account a provision which would allow the issuer to increase the interest rate for such a reason. Section 3 of this bill provides that an issuer may not prohibit merchants from offering certain discounts to a customer to induce the customer to pay by means other than a credit card or credit card account.

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

Section 1. Chapter 97A of NRS is hereby amended by adding thereto ~~the~~ new section to read as follows: the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. An issuer shall not:

(a) *Increase the interest rate charged to a cardholder based upon the late payment by the cardholder to another issuer or creditor of the cardholder ~~and~~ that is not an affiliate or subsidiary of the issuer or creditor; or*

(b) *Include a universal default clause in a contract or agreement relating to a credit card account.*

2. *As used in this section ~~f, "universal"~~ :*

(a) *"Affiliate or subsidiary of the issuer or creditor" means an affiliate or subsidiary that conducts business under a name which is:*

(1) *The same as the name of the issuer or creditor; or*

(2) *Sufficiently similar to the name of the issuer or creditor such that a reasonable cardholder would believe that he is conducting business with the issuer or creditor.*

(b) *"Universal default clause" means any clause or provision which allows an issuer to increase the interest rate charged to a cardholder based upon the late payment by the cardholder to another issuer or creditor of the cardholder ~~and~~ that is not an affiliate or subsidiary of the issuer or creditor.*

Sec. 3. *No issuer may, by contract or otherwise, prohibit a merchant from offering a discount to a customer to induce the customer to pay by cash, check or similar means rather than by use of a credit card or a credit card account for the purchase of goods or services.*

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 380.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 292.

"SUMMARY—Makes various changes concerning defendants in criminal actions. (BDR 14-279)"

"AN ACT relating to criminal procedure; authorizing a plea and verdict of guilty but mentally ill under certain circumstances; 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; revising provisions governing the commitment to and the discharge ~~and~~ or conditional release from the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services of a criminal defendant following an acquittal based on the insanity defense; revising provisions governing the commitment to and conditional release from the custody of the Administrator of certain other criminal defendants who the court finds to be incompetent; 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 the 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 the insanity defense for crimes that require an element of intent. Based on this reasoning and because the Court did not believe 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 v. State*, 117 Nev. 548, 575 (2001)) 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 under certain circumstances. Specifically, section 10 authorizes a judge or jury to find a defendant guilty but mentally ill if the defendant entered a plea of not guilty by reason of insanity and the judge or jury finds that the defendant: (1) is guilty of the offense; (2) has proven that he was mentally ill at the time the offense was committed; and (3) has not established that he was insane for the 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 18 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, the court is also required, under certain circumstances, to direct the Department of Corrections to provide to the defendant such treatment as is available for his mental illness during his confinement or probation. 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.

Sections 15 and ~~31-37~~ 31-37.5 of this bill establish the procedures governing the discharge or conditional release from custody 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 following an acquittal by reason of insanity. Section 15 amends the provisions governing the insanity defense to provide that a defendant who is acquitted by reason of insanity must be committed to the custody of the Division until he is eligible for discharge or conditional release. Section 34 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 35 provides the procedure for the initial hearing to determine whether a person is eligible for discharge or conditional release. Section 36 provides that the court must enter an order within 15 days after the conclusion of such a hearing. Section 37 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 37 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. ~~[Section 37 further provides that the same rules and procedures which apply to the initial hearing generally also apply to a petition for discharge or conditional release.]~~

Under existing case law in Nevada, a defendant in a criminal case who asserts the insanity defense must prove his insanity at the time of the alleged crime by proving: (1) that he was in a delusional state due to a disease or defect of the mind; and (2) that he did not understand the nature or ~~[equality]~~ capacity of his act or ~~[understand]~~ appreciate that his act was wrong, meaning that the act is not authorized by law, ~~[; and (3) that if the facts of the offense, as believed by the defendant in his delusional state, were true, the facts would justify the commission of the offense.]~~ (*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 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)

Sections 38-45 of this bill establish the procedures for commitment to and conditional release from the custody of the Administrator of a defendant if: (1) the court finds the defendant to be incompetent to stand trial or receive pronouncement of judgment, with no substantial probability of attaining competency in the foreseeable future; and (2) based on such a finding of incompetency, the court ordered the dismissal of the criminal proceedings brought against him.

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) ~~[The defendant was in a delusional state due]~~ Due to a disease or defect of the mind ~~for~~, he was in a delusional state at the time of the alleged offense; and

(b) Due to the delusional state, ~~the defendant could not know~~ he either did not:

~~(1) Know or understand the nature and capacity of his ~~conduct or the defendant could not appreciate~~ act; or~~

~~(2) Appreciate that his conduct was wrong, meaning not authorized by law, ~~and~~~~

~~(c) If the facts of the offense, as believed by the defendant in his delusional state, were true, the facts would justify the commission of the offense.]~~

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 ~~to~~ *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 ~~to~~ *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 ~~to~~ *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 ~~due to a disease or defect of the mind~~ at the time of the commission of the offense; and*

(c) *The defendant has not established by a preponderance of the evidence that ~~he~~*

~~(1) The defendant was in a delusional state due to a disease or defect of the mind;~~

~~(2) Due to the delusional state, the defendant could not know or understand the nature and capacity of his conduct or the defendant could not appreciate that his conduct was wrong, meaning not authorized by law; and~~

~~(3) If the facts of the offense, as believed by the defendant in his delusional state, were true, the facts would justify the commission of the offense; 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~~ 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 ~~but~~ *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. 15. 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 therefrom in accordance with law.~~

~~➔ 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.~~

~~4. appointed by the court; and~~

~~(c) Order that the person 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 the person is eligible for discharge or conditional release pursuant to the provisions of sections 31 to ~~37.1~~ 37.5, inclusive, of this act.

2. 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"]~~, "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.]~~

Sec. 16. 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. 17. 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. 18. Chapter 176 of NRS is hereby amended by adding thereto 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 ~~{available}~~ medically indicated for his mental illness. ~~f. if the court determines that the relative risks and benefits of the available treatment are such that a reasonable person would consent to such treatment.}~~*

2. ~~If the~~ 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~~ at a facility designated by the Department to provide such treatment. The Department 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 finds that the person is no longer mentally ill.

Sec. 19. 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. 20. 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. 21. 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. 22. 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. 23. 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. 24. 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. 25. 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. 26. 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. 27. 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. 28. 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. 29. 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. 30. Chapter 178 of NRS is hereby amended by adding thereto the provisions set forth as sections 31 to 45, inclusive, of this act.

Sec. 31. *As used in sections 31 to ~~37.5~~ 37.5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections ~~32 and 33~~ 31.5 to 33.5, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 31.5. *"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. 32.5. *"Division facility" has the meaning ascribed to it in NRS 433.094.*

Sec. 33. *"Mental disorder" means a mental illness that results from a psychiatric or neurological disorder that so substantially impairs the mental*

or emotional functioning of a 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. 33.5. "Mentally ill person" means a person who has a mental disorder.

Sec. 34. 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 ~~for the Division~~ pursuant to NRS 175.539 is eligible for:

~~1.1~~ (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

~~2.2~~ (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 the~~ 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. 35. 1. Except as otherwise provided in ~~subsection 2 or 3, within 50~~ this section, a court must hold a hearing not later than 60 days after ~~at~~ :

(a) A person is committed to the custody of the Administrator ~~for the Division~~ pursuant to NRS 175.539 ~~for the~~ ; 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 37 of this act.

2. During the hearing held pursuant to subsection 1, the court shall ~~hold a hearing to~~ consider any relevant information that will enable the court to determine whether the person is eligible for discharge or conditional release pursuant to section 34 of this act.

~~2.2~~ The court may postpone the hearing described in this subsection ~~1.1~~ for good cause or upon agreement by the person committed to the custody of the Administrator, the court and the Division.

3. ~~The person committed to the custody of the Administrator may waive the hearing described in subsection 1.~~

~~4. If the person committed to the custody of the Administrator waives the hearing described in subsection 1, the Division shall, within 50 days after the date that the person was committed to the custody of the Administrator:~~

~~(a) Complete an examination and evaluation of the person and complete a report of such examination and evaluation, unless the has previously~~

~~completed such an examination, evaluation and report of the person within 90 days before the date that the person was committed to the custody of the Administrator; and~~

~~(b) Provide a copy of the report described in paragraph (a) to:~~

~~(1) The person committed to the custody of the Administrator and his attorney;~~

~~(2) The prosecuting attorney; and~~

~~(3) The court.~~

~~5. If the person committed to the custody of the Administrator has not waived the hearing described in subsection 1, the Division shall, not later than 21 days before the date of that the hearing, held pursuant to 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. 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) Complete an examination and evaluation of the person and complete a report of such examination and evaluation, unless the Division has previously completed such an examination, evaluation and report of the person within 90 days before the date of the hearing; and 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.~~

~~6. Provide~~

~~4. Within the period prescribed in subsection 3, the Administrator or his designee shall provide a copy of the report described in paragraph (a) to:~~

~~1. (a) The person committed to the custody of the Administrator and his attorney;~~

~~2. (b) The prosecuting attorney; and~~

~~3. (c) The court. and~~

~~(e) Provide notice of the hearing to:~~

~~(1) The person committed to the custody of the Administrator and his attorney; and~~

~~(2) The prosecuting attorney.~~

~~6. At the hearing described in subsection 1, the court is not bound by the formal rules of evidence. The court may issue subpoenas for any person or evidence and may admit and consider any relevant evidence.~~

Sec. 36. 1. Within 15 days after ~~the~~ a hearing described in section 35 of this act is concluded, ~~for waived,~~ the court shall:

(a) Determine whether the person committed to the custody of the Administrator ~~of the Division~~ pursuant to NRS 175.539 has established by a preponderance of the evidence that he is eligible for discharge or conditional release pursuant to section 34 of this act; and

(b) Issue an order which contains a concise statement of the findings of the court and the reasons for those findings and which orders:

- (1) The continued commitment of the person;
- (2) The conditional release of the person; or
- (3) The discharge from commitment of the person.

2. If the court orders the conditional release of the person, the Division shall, within 30 days after the issuance of the order, release the person under the conditions imposed in the order.

3. The court shall notify the Central Repository for Nevada Records of Criminal History whenever the court orders the discharge or conditional release of a person pursuant to this section.

Sec. 37. 1. A person committed to the custody of the Administrator ~~of the Division~~ pursuant to NRS 175.539 may petition the court for discharge or conditional release not ~~earlier~~ sooner than 1 year after the final hearing conducted pursuant to section 35 of this act; person is committed to the custody of the Administrator and not more frequently 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 ~~condition~~ 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 is able to recommend 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 ~~and who wishes to~~ may apply for discharge or conditional release pursuant to subsection 1 ~~must~~ by:

(a) ~~File~~ Filing a petition for discharge or conditional release with the court that ordered the person committed pursuant to NRS 175.539; and

(b) ~~Provide~~ Providing a copy of the petition to the Division and the prosecuting attorney.

4. ~~If the~~ The Division ~~files~~ may file a petition for discharge or conditional release pursuant to subsection 2 ~~if the Division must~~ by:

(a) ~~File~~ Filing the petition with the court that ordered the person committed to the custody of the Administrator pursuant to NRS 175.539;

(b) ~~Include~~ Including with the petition an affidavit of a physician or licensed psychologist as required pursuant to subsection 2; and

(c) ~~Provide~~ Providing a copy of the petition to the person committed to the custody of the Administrator, his attorney and the prosecuting attorney.

~~f 5. Except as otherwise provided in subsection 6, within 50 days after the Division or the person committed to the custody of the Administrator files a petition for discharge or conditional release, the court shall hold a hearing to consider any relevant information that will enable the court to determine whether the person is eligible for discharge or conditional release pursuant to section 34 of this act.~~

~~6. The court may postpone the hearing described in subsection 5 for good cause or upon agreement by the person committed to the custody of the Administrator, the court and the Division.~~

~~7. Within 50 days after the date that the petition for discharge or conditional release is filed, the Division shall:~~

~~(a) Complete an examination and evaluation of the person committed to the custody of the Administrator and complete a report of such examination and evaluation, unless the Division has previously completed such an examination, evaluation and report of the person within 90 days before the date that the petition was filed; and~~

~~(b) Provide a copy of the report described in paragraph (a) to:~~

~~(1) The person committed to the custody of the Administrator and his attorneys;~~

~~(2) The prosecuting attorney; and~~

~~(3) The court.~~

~~8. At the hearing described in subsection 5, the court is not bound by the formal rules of evidence. The court may issue subpoenas for any person or evidence and may admit and consider any relevant evidence.~~

~~9. The provisions of section 36 of this act apply to a petition for discharge or release filed pursuant to this section.~~

Sec. 37.5. 1. When a person is conditionally released pursuant to sections 31 to 37.5, 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 31 to 37.5, 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 31 to 37.5, 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. 38. *As used in NRS 178.399 to 178.460, inclusive, and sections 38 to 45, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 178.399 and sections 39, 40 and 41 of this act have the meanings ascribed to them in those sections.*

Sec. 39. *"Division" means the Division of Mental Health and Developmental Services of the Department of Health and Human Services.*

Sec. 40. *"Forensic assertive community treatment team" means a treatment team that includes a psychiatrist that provides treatment, rehabilitation and supervision services to the defendant, including, without limitation, the management of the defendant's medication, psychiatric rehabilitation services, random drug testing, drug and alcohol treatment programs and vocational rehabilitation.*

Sec. 41. *"Mental disorder" has the meaning ascribed to it in section 33 of this act.*

Sec. 42. 1. *If the proceedings against a defendant who is charged with a felony are required to be dismissed pursuant to subsection 5 of NRS 178.425, the prosecuting attorney may, within 30 days after the dismissal, file a motion with the court for a hearing to determine if the court should retain jurisdiction over the defendant. The court shall hold the hearing within 30 days after the motion is filed with the court.*

2. *At a hearing held pursuant to subsection 1, if the court finds by clear and convincing evidence that the defendant committed the crime with which the defendant is charged and that the defendant suffers from a mental disorder, the court must order:*

(a) *A peace officer to take the defendant into protective custody and transport him to a secure facility operated by the Division; and*

(b) *That the defendant be committed to the custody of the Administrator of the Division until the person is eligible for conditional release pursuant to section 43 of this act.*

3. *The length of commitment of a defendant pursuant to subsection 2 must not exceed the longest period of incarceration provided for the crime or crimes with which the defendant is charged.*

Sec. 43. 1. *A defendant who is committed to the custody of the Administrator of the Division pursuant to section 42 of this act is eligible for conditional release only after:*

(a) *A risk assessment has been completed by the Division;*

(b) *A decision to release the defendant from commitment with conditions imposed by the court in consultation with the Division has been made based on input from the defendant's treatment team, the prosecuting attorney, the counsel for the defendant and team that will supervise the defendant in the community; and*

(c) *The court which committed the defendant has approved the conditional release.*

2. *If the court which ordered the commitment of the defendant pursuant to section 42 of this act is located in a judicial district that has established a*

program pursuant to NRS 176A.250, the court shall assign the defendant to the program.

3. Unless the defendant is assigned to a program established pursuant to NRS 176A.250, the court which ordered the commitment of the defendant pursuant to section 42 of this act shall supervise the conditional release of the defendant.

4. If the defendant has been assigned to a program established pursuant to NRS 176A.250, the court which assigned the defendant to the program shall supervise the conditional release of the defendant, subject to the completion of the terms and conditions established by the program.

5. The conditions imposed by the court for the release of the defendant from commitment must include intensive supervision by a forensic assertive community treatment team. The forensic assertive community treatment team shall at least once every 6 months provide a report concerning the progress of the defendant to the court which ordered the commitment of the defendant or the court which supervises the conditional release of the defendant pursuant to subsection 4, as applicable.

Sec. 44. 1. The forensic assertive community treatment team required to supervise a defendant who is conditionally released from commitment pursuant to section 43 of this act shall notify the court which ordered the commitment of the defendant or the court which supervises the conditional release of the defendant pursuant to subsection 4 of section 43 of this act, as applicable, if the defendant violates a condition of his release from commitment.

2. If the court is notified pursuant to subsection 1 of a violation, the court shall consult with the forensic assertive community treatment team, the counsel for the defendant and the prosecuting attorney concerning the potential risk to the community that is posed by the noncompliance of the defendant with the conditions of release from commitment.

3. After consulting with the persons required by subsection 2, and considering the risks to the community, the court may issue a temporary order of detention to commit the defendant to the custody of the Administrator of the Division for evaluation. If the court issues such an order, the court must:

(a) Order a peace officer to take the defendant into protective custody and transport him to a forensic facility operated by the Division;

(b) Order that the defendant be committed to the custody of the Administrator for evaluation; and

(c) Provide a copy of the order to the counsel for the defendant and the prosecuting attorney.

4. Within 10 days after a defendant has been committed to the custody of the Administrator for evaluation pursuant to subsection 3, the court shall hold a hearing to consider any relevant information that will enable the court to determine whether the conditional release of the defendant should be continued, modified or terminated.

5. *As used in this section, "forensic facility" has the meaning ascribed to it in NRS 175.539.*

Sec. 45. 1. *If the proceedings against a defendant who is charged with a misdemeanor are required to be dismissed pursuant to subsection 5 of NRS 178.425, the prosecuting attorney may, within 30 days after the dismissal, file a petition with the court to commence proceedings for admission of the defendant to a mental health facility in the manner provided for involuntary court-ordered admissions to a mental health facility pursuant to NRS 433A.200 to 433A.330, inclusive.*

2. *The mental health facility shall develop a treatment plan for each defendant admitted to the mental health facility pursuant to subsection 1. The treatment plan must include, without limitation, intensive supervision of the defendant by a forensic assertive community treatment team.*

3. *If the defendant is conditionally released from a mental health facility pursuant to chapter 433A of NRS and violates a provision of his treatment plan, the court may order the defendant to return to the facility.*

Sec. 46. 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. 47. NRS 178.399 is hereby amended to read as follows:

178.399 ~~{As used in NRS 178.400 to 178.460, inclusive, unless the context otherwise requires, "treatment}~~ "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. 48. NRS 178.415 is hereby amended to read as follows:

178.415 1. Except as otherwise provided in this subsection, the court shall appoint two psychiatrists, two psychologists, or one psychiatrist and one psychologist, to examine the defendant. If the defendant is accused of a misdemeanor, the court of jurisdiction shall appoint a psychiatric social worker, or other person who is especially qualified by the Division ~~{of Mental Health and Developmental Services of the Department of Health and Human Services,}~~ to examine the defendant.

2. Except as otherwise provided in this subsection, at a hearing in open court, the court that orders the examination must receive the report of the examination. If a Justice Court orders the examination of a defendant who is charged with a gross misdemeanor or felony, the district court must receive the report of the examination.

3. The court that receives the report of the examination shall permit counsel for both sides to examine the person or persons appointed to examine the defendant. The prosecuting attorney and the defendant may:

(a) Introduce other evidence including, without limitation, evidence related to treatment to competency and the possibility of ordering the involuntary administration of medication; and

(b) Cross-examine one another's witnesses.

4. The court that receives the report of the examination shall then make and enter its finding of competence or incompetence.

5. The court shall not appoint a person to provide a report or an evaluation pursuant to this section, unless the person is certified by the Division ~~{of Mental Health and Developmental Services}~~ pursuant to NRS 178.417.

Sec. 49. NRS 178.417 is hereby amended to read as follows:

178.417 1. A person may not provide a report or an evaluation concerning the competency of a defendant to stand trial or receive pronouncement of judgment pursuant to this section and NRS 178.400 to 178.460, inclusive, unless the person is certified by the Division ~~{of Mental Health and Developmental Services of the Department of Health and Human Services}~~ for that purpose.

2. The Division ~~{of Mental Health and Developmental Services}~~ shall adopt regulations to establish:

(a) Requirements for certification of a person who provides reports and evaluations concerning the competency of a defendant pursuant to this section and NRS 178.400 to 178.460, inclusive;

(b) Reasonable fees for issuing and renewing such certificates; and

(c) Requirements for continuing education for the renewal of a certificate.

3. The fees so collected must be used only to:

(a) Defray the cost of issuing and renewing certificates; and

(b) Pay any other expenses incurred by the Division ~~{of Mental Health and Developmental Services}~~ in carrying out its duties pursuant to this section.

4. The Division ~~{of Mental Health and Developmental Services}~~ shall establish and administer examinations to determine the eligibility of any person who applies for certification. An applicant is entitled to certification upon satisfaction of the requirements of the Division . ~~{of Mental Health and Developmental Services.}~~ The Division ~~{of Mental Health and Developmental Services}~~ may enter into a contract with another person, organization or agency to carry out or assist in carrying out the provisions of this subsection.

Sec. 50. NRS 178.425 is hereby amended to read as follows:

178.425 1. If the court finds the defendant incompetent, and that he is dangerous to himself or to society and that commitment is required for a determination of his ability to receive treatment to competency and to attain competence, the judge shall order the sheriff to convey the defendant forthwith, together with a copy of the complaint, the commitment and the physicians' certificate, if any, into the custody of the Administrator of the Division ~~{of Mental Health and Developmental Services of the Department of Health and Human Services}~~ or his designee for detention and treatment at a secure facility operated by that Division. The order may include the involuntary administration of medication if appropriate for treatment to competency.

2. The defendant must be held in such custody until a court orders his release or until he is returned for trial or judgment as provided in NRS 178.450, 178.455 and 178.460.

3. If the court finds the defendant incompetent but not dangerous to himself or to society, and finds that commitment is not required for a determination of the defendant's ability to receive treatment to competency and to attain competence, the judge shall order the defendant to report to the Administrator or his designee as an outpatient for treatment, if it might be beneficial, and for a determination of his ability to receive treatment to competency and to attain competence. The court may require the defendant to give bail for his periodic appearances before the Administrator or his designee.

4. Except as otherwise provided in subsection 5, proceedings against the defendant must be suspended until the Administrator or his designee or, if the defendant is charged with a misdemeanor, the judge finds him capable of

standing trial or opposing pronouncement of judgment as provided in NRS 178.400.

5. Whenever the defendant has been found incompetent, with no substantial probability of attaining competency in the foreseeable future, and released from custody or from obligations as an outpatient pursuant to paragraph (d) of subsection 4 of NRS 178.460, the proceedings against the defendant which were suspended must be dismissed. No new charge arising out of the same circumstances may be brought after a period, equal to the maximum time allowed by law for commencing a criminal action for the crime with which the defendant was charged, has lapsed since the date of the alleged offense.

Sec. 51. NRS 178.435 is hereby amended to read as follows:

178.435 The expenses of the examination and of the transportation of the defendant to and from the custody of the Administrator of the Division ~~of Mental Health and Developmental Services of the Department of Health and Human Services~~ or his designee are in the first instance chargeable to the county or city from which he has been sent. But the county or city may recover the money from the estate of the defendant, from a relative legally bound to care for him or from the county or city of which he is a resident.

Sec. 52. NRS 178.450 is hereby amended to read as follows:

178.450 1. The Administrator of the Division ~~of Mental Health and Developmental Services of the Department of Health and Human Services~~ or his designee shall keep each defendant committed to his custody under NRS 178.425 or 178.460 *or section 42 of this act* under observation and shall have each defendant who has been ordered to report to him as an outpatient under those sections evaluated periodically.

2. The Administrator or his designee shall report in writing to a judge of the court which committed the person and the prosecuting attorney of the county or city to which the person may be returned for further court action whether, in his opinion, upon medical consultation, the defendant is of sufficient mentality to be able to understand the nature of the criminal charge against him and, by reason thereof, is able to aid and assist his counsel in the defense interposed upon the trial or against the pronouncement of the judgment thereafter. The Administrator or his designee shall submit such a report, in the case of a person charged or convicted of a misdemeanor, within 3 months after the order for commitment or treatment and evaluation as an outpatient or for recommitment pursuant to paragraph (b) of subsection 4 of NRS 178.460, and at monthly intervals thereafter. In all other cases, the initial report must be submitted within 6 months after the order and at 6-month intervals thereafter. If the opinion of the Administrator or his designee about the defendant is that he is not of sufficient mentality to understand the nature of the charge against him and assist in his own defense, the Administrator or his designee shall also include in the report his opinion whether:

(a) There is a substantial probability that the defendant can receive treatment to competency and will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future; and

(b) The defendant is at that time a danger to himself or to society.

3. The report must contain:

(a) The name of the defendant and the county or city to which he may be returned for further court action.

(b) The circumstances under which he was committed to the custody of the Administrator or his designee and the duration of his hospitalization, or the circumstances under which he was ordered to report to the Administrator or his designee as an outpatient.

Sec. 53. NRS 178.453 is hereby amended to read as follows:

178.453 1. The Administrator of the Division ~~[of Mental Health and Developmental Services of the Department of Health and Human Services]~~ or his designee may request from the Department of Corrections access to any records in its possession which contain information that may assist in evaluating and treating a defendant who previously has served a term of imprisonment under the supervision of the Department of Corrections and who is committed to the custody of or ordered to report to the Administrator or his designee pursuant to NRS 178.425 or 178.460 ~~[]~~ *or section 42 of this act.*

2. Unless otherwise ordered by a court, upon request of the Administrator or his designee for access to records of a defendant pursuant to subsection 1, the Department of Corrections, through the designated medical director, shall provide access to any such records, including, without limitation, relevant medical and mental health records, for the limited purpose of allowing the Administrator or his designee to evaluate and treat the defendant.

3. No oral or written consent of the defendant is required for the Administrator or his designee to obtain access to records from the Department of Corrections pursuant to this section.

4. As used in this section, "designated medical director" means the designated administrative officer of the Department of Corrections who is responsible for the medical treatment of offenders.

Sec. 54. NRS 178.455 is hereby amended to read as follows:

178.455 1. Except as otherwise provided for persons charged with or convicted of a misdemeanor, the Administrator of the Division ~~[of Mental Health and Developmental Services of the Department of Health and Human Services]~~ or his designee shall appoint a licensed psychiatrist and a licensed psychologist from the treatment team who is certified pursuant to NRS 178.417 to evaluate the defendant. The Administrator or his designee shall also appoint a third evaluator who must be a licensed psychiatrist or psychologist, must be certified pursuant to NRS 178.417 and must not be a member of the treatment team. Upon the completion of the evaluation and

treatment of the defendant, the Administrator or his designee shall report to the court in writing his specific findings and opinion upon:

(a) Whether the person is of sufficient mentality to understand the nature of the offense charged;

(b) Whether the person is of sufficient mentality to aid and assist counsel in the defense of the offense charged, or to show cause why judgment should not be pronounced; and

(c) If the person is not of sufficient mentality pursuant to paragraphs (a) and (b) to be placed upon trial or receive pronouncement of judgment, whether there is a substantial probability that he can receive treatment to competency and will attain competency in the foreseeable future.

2. A copy of the report must be:

(a) Maintained by the Administrator ~~[of the Division of Mental Health and Developmental Services]~~ or his designee and incorporated in the medical record of the person; and

(b) Sent to the office of the district attorney and to the counsel for the outpatient or person committed.

3. In the case of a person charged with or convicted of a misdemeanor, the judge shall, upon receipt of the report set forth in NRS 178.450 from the Administrator ~~[of the Division of Mental Health and Developmental Services]~~ or his designee:

(a) Send a copy of the report by the Administrator or his designee to the prosecuting attorney and to the defendant's counsel;

(b) Hold a hearing, if one is requested within 10 days after the report is sent pursuant to paragraph (a), at which the attorneys may examine the Administrator or his designee or the members of the defendant's treatment team on the determination of the report; and

(c) Within 10 days after the hearing, if any, or 20 days after the report is sent if no hearing is requested, enter his finding of competence or incompetence in the manner set forth in subsection 4 of NRS 178.460.

Sec. 55. NRS 178.460 is hereby amended to read as follows:

178.460 1. If requested by the district attorney or counsel for the defendant within 10 days after the report by the Administrator of the Division ~~[of Mental Health and Developmental Services of the Department of Health and Human Services]~~ or his designee is sent to them, the judge shall hold a hearing within 10 days after the request at which the district attorney and the defense counsel may examine the members of the treatment team on their report.

2. If the judge orders the appointment of a licensed psychiatrist or psychologist who is not employed by the Division ~~[of Mental Health and Developmental Services of the Department of Health and Human Services]~~ to perform an additional evaluation and report concerning the defendant, the cost of the additional evaluation and report is a charge against the county.

3. Within 10 days after the hearing or 20 days after the report is sent, if no hearing is requested, the judge shall make and enter his finding of

competence or incompetence, and if he finds the defendant to be incompetent:

(a) Whether there is substantial probability that the defendant can receive treatment to competency and will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future; and

(b) Whether the defendant is at that time a danger to himself or to society.

4. If the judge finds the defendant:

(a) Competent, the judge shall, within 10 days, forward his finding to the prosecuting attorney and counsel for the defendant. Upon receipt thereof, the prosecuting attorney shall notify the sheriff of the county or chief of police of the city that the defendant has been found competent and prearrange with the facility for the return of the defendant to that county or city for trial upon the offense there charged or the pronouncement of judgment, as the case may be.

(b) Incompetent, but there is a substantial probability that he can receive treatment to competency and will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future and finds that he is dangerous to himself or to society, the judge shall recommit the defendant and may order the involuntary administration of medication for the purpose of treatment to competency.

(c) Incompetent, but there is a substantial probability that he can receive treatment to competency and will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future and finds that he is not dangerous to himself or to society, the judge shall order that the defendant remain an outpatient or be transferred to the status of an outpatient under the provisions of NRS 178.425.

(d) Incompetent, with no substantial probability of attaining competency in the foreseeable future, the judge shall order the defendant released from custody or if the defendant is an outpatient, released from his obligations as an outpatient if, within 10 days, a petition is not filed to commit the person pursuant to NRS 433A.200. After the initial 10 days, the defendant may remain an outpatient or in custody under the provisions of this chapter only as long as the petition is pending unless the defendant is *committed to the custody of the Administrator pursuant to section 42 or 45 of this act* or involuntarily committed pursuant to chapter 433A of NRS.

5. ~~[No]~~ Except as otherwise provided in subsection 3 of section 42 of this act, no person who is committed under the provisions of this chapter may be held in the custody of the Administrator ~~[of the Division of Mental Health and Developmental Services of the Department of Health and Human Services]~~ or his designee longer than the longest period of incarceration provided for the crime or crimes with which he is charged or 10 years, whichever period is shorter. Upon expiration of the applicable period ~~[.]~~ provided in this section or subsection 3 of section 42 of this act, the defendant must be returned to the committing court for a determination as to whether or not involuntary commitment pursuant to chapter 433A of NRS is required.

Sec. 56. 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. 57. 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. 58. 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. 59. 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. 60. 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 judgement 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. 61. 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. 62. 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. 63. 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. 64. 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. 65. 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. 66. 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. 67. 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. 68. 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. 69. 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. 70. 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. 71. 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. 72. 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. 73. 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. 74. 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. 75. 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. 76. 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. 77. 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. 78. 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. 79. 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. 80. 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. 81. 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. 82. 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. 83. 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. 84. 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. 85. 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. 86. 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. 87. 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. 88. 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. 89. 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 ~~it~~ or training for employees of an analytical laboratory that is approved by the Committee on Testing for Intoxication created in NRS 484.388.

Sec. 90. 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 ~~not~~ 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. 91. 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. 92. 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. 93. 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. 94. 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. 95. 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. 96. 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. 97. 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. 98. 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. 99. 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. 100. 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. 101. 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. 102. 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. 103. 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. 104. 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. 105. 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. 106. 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* ~~for 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. 107. 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. 108. 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. 109. 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. 110. 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. 111. 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. 112. 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. 113. 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 insignie 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. 114. 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. 115. 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. 116. 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 ~~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. 117. 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. 118. 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. 119. 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. 120. 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. 121. 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. 122. 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. 123. 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. 124. 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. 125. 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. 126. 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. 127. 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. 128. 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. 129. 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. 130. 1. The amendatory provisions of sections 15 and 31 to ~~37.1~~ 37.5, inclusive, 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.

2. The amendatory provisions of sections 38 to 45, inclusive, of this act concerning the commitment and conditional release of a person committed to the custody of the Administrator pursuant to NRS 178.400 to 178.460, inclusive, apply to any such person who is in the custody of the Administrator on October 1, 2007.

Sec. 131. 1. This section and sections 1 to 66, inclusive, 68 to 84, inclusive, 86, 88 to 93, inclusive, 95, 97 to 123, inclusive, 125 and 127 to 130, inclusive, of this act become effective on October 1, 2007.

2. Section 66 of this act expires by limitation on June 30, 2009.

3. Sections 84, 86, 93 and 95 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 123 and 125 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 67 of this act becomes effective on July 1, 2009.

6. Sections 85, 87, 94 and 96 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 124 and 126 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 the 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.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 434.

Bill read second time.

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

Amendment No. 381.

"SUMMARY—Revises provisions governing off-highway vehicles. (BDR 43-400)"

"AN ACT relating to off-highway vehicles; requiring an owner of an off-highway vehicle to apply for the issuance of a certificate of title for the off-highway vehicle under certain circumstances; requiring the Department of Motor Vehicles to charge and collect certain fees; ~~creating the Fund for Off-Highway Vehicles;~~ creating the ~~Committee on~~ Off-Highway ~~Vehicles;~~ *Vehicle Advisory Board*; requiring the Department to adopt certain regulations relating to off-highway vehicles; requiring an owner of an off-highway vehicle to apply for the issuance of a certificate of operation for the off-highway vehicle within a certain period; providing exceptions; authorizing the Department to impose administrative fines for violations of certain provisions governing off-highway vehicles; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits a person from operating an off-highway vehicle on a highway in this State unless the person has obtained a certificate of operation for the off-highway vehicle and has attached the certificate of operation to the off-highway vehicle in the manner specified by the Department of Taxation. (NRS 490.080) The term "off-highway vehicle" means any motor vehicle that is designed primarily for off-highway and all-terrain use, including, without limitation, an all-terrain vehicle, an all-terrain motorcycle, a dune buggy, a snowmobile or any motor vehicle used for recreational purposes on public lands. (NRS 490.060) The term "highway" means any way that is maintained by a public authority and is open for use by the public for vehicular traffic. (NRS 482.045, 490.040)

Existing law requires an authorized dealer of off-highway vehicles to issue a certificate of operation for the off-highway vehicle upon the sale of the off-highway vehicle or upon request by a person who purchased the off-highway vehicle outside this State under certain circumstances. (NRS 490.070)

Sections 3-10 of this bill add new provisions to chapter 490 of NRS relating to off-highway vehicles.

Section 5 of this bill requires a person who acquires ownership of an off-highway vehicle on or after January 1, 2008, to apply to the Department of Motor Vehicles for the issuance of a certificate of title for the off-highway vehicle within 30 days after acquiring ownership of the off-highway vehicle.

Section 6 of this bill provides for the issuance of a class 1 or class 2 certificate of operation for an off-highway vehicle. Each certificate of operation is valid for 2 years after the date of issuance. The fee for each certificate of operation is \$12.50. Section 6 prohibits the Department from issuing a class 2 certificate of operation on or after January 1, 2009. However, a class 2 certificate of operation issued before that date remains subject to renewal and, if renewed, remains valid.

Section 7 of this bill requires the Department of Motor Vehicles to charge and collect a fee in the amount of \$12.50 for each class 1 or class 2 certificate of operation issued or renewed by the Department. The fee is in addition to the fee imposed pursuant to section 6 of this bill.

~~Section 8 of this bill creates the Fund for Off-Highway Vehicles in the State Treasury. The Committee on Off-Highway Vehicles is required to administer the Fund. All money received from the fees collected pursuant to section 7 of this bill must be deposited into the Fund. All money deposited into the Fund must be used only for projects relating to off-highway vehicles pursuant to section 10 of this bill.~~

Section 9 of this bill creates the ~~[Committee on]~~ Off-Highway ~~[Vehicles.]~~ Vehicle Advisory Board. The ~~[Committee]~~ Board consists of ~~[eight]~~ 13 members ~~[, one member from the Division of State Parks of the State Department of Conservation and Natural Resources, one member who represents the environment and six members who have participated in various recreational activities concerning off-highway vehicles. Each member of the Committee serves for a term of 2 years and, if money is available from the Fund, is]~~ appointed by the Governor. Members are entitled to receive the per diem allowance and travel expenses provided to state officers and employees.

Section 10 of this bill imposes various duties upon the ~~[Committee,]~~ Board, including, without limitation, the duty to select ~~[four nonvoting advisers to the Committee and to adopt regulations for awarding grants from the Fund.]~~ a Chairman and to meet at least once each calendar quarter. Section 10 ~~[authorizes the Committee to award a grant of money from the Fund for studying, planning, obtaining, enhancing or maintaining trails and facilities for use by owners and operators of off-highway vehicles and for law enforcement, safety training and education relating to off-highway vehicles.]~~ requires the Board to study the need for designated roads and trails for off-highway vehicle roads or trails and to advise appropriate agencies on policies, programs and facilities needed for the safe use of off-highway vehicles on roads and trails in this State.

Section 13 of this bill provides that an authorized dealer of off-highway vehicles may receive and submit to the Department of Motor Vehicles

applications for the issuance or renewal of certificates of operation or for the issuance of certificates of title for off-highway vehicles. Each authorized dealer must submit the applications to the Department on or before the end of the month in which the authorized dealer receives the applications. Section 13 also allows each authorized dealer to retain a fee of not more than \$2 for each application for a certificate of operation received by the authorized dealer. In addition, section 13 requires the Department to adopt various regulations, including, without limitation, regulations for the renewal of certificates of operation by mail, the collection of a fee of not more than \$25 for the renewal of a certificate of operation and the imposition of administrative fines for certain violations concerning off-highway vehicles.

Section 14 of this bill prohibits a person from operating an off-highway vehicle in this State without a certificate of operation for the off-highway vehicle, regardless of whether the person operates the off-highway vehicle on a highway. Section 14 further requires each owner of an off-highway vehicle to apply, within 30 days after acquiring ownership of the off-highway vehicle, to an authorized dealer or to the Department for the issuance of a certificate of operation for the off-highway vehicle. Section 14 expands the types of off-highway vehicles for which a certificate of operation is not required to include an off-highway vehicle that has an engine having a displacement of not more than 90 cubic centimeters, an off-highway vehicle that is used solely for racing on a private or closed race course or an off-highway vehicle that was manufactured before January 1, 1976.

Section 15 of this bill repeals the provisions of NRS 490.030, which define the term "Department" for purposes of chapter 490 of NRS to mean the Department *of* Taxation. Because NRS 481.015 defines the term "Department" for purposes of title 43 of NRS to mean the Department of Motor Vehicles, the effect of the repeal of NRS 490.030 and the amendment of NRS 481.015 set forth in section 1 of this bill is to place the authority to administer the provisions of chapter 490 of NRS under the Department of Motor Vehicles.

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

Section 1. NRS 481.015 is hereby amended to read as follows:

481.015 1. Except as otherwise provided in this subsection, as used in this title, unless the context otherwise requires, "certificate of title" means the document issued by the Department that identifies the legal owner of a vehicle and contains the information required pursuant to subsection 2 of NRS 482.245. The definition set forth in this subsection does not apply to chapters 488 and 489 of NRS.

2. Except as otherwise provided in chapter 480 of NRS, NRS 484.388 to 484.3888, inclusive, 486.363 to 486.377, inclusive, ~~[chapter]~~ *and chapters* 486A ~~[of NRS]~~ *and* ~~[NRS 488.480,]~~ *and chapter 490 of NRS,* ~~488 of NRS,~~ as used in this title, unless the context otherwise requires:

(a) "Department" means the Department of Motor Vehicles.

(b) "Director" means the Director of the Department . ~~{of Motor Vehicles.}~~

Sec. 2. Chapter 490 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 10, inclusive, of this act.

Sec. 3. ~~["Committee"]~~ "Board" means the ~~{Committee on}~~ Off-Highway ~~{Vehicles}~~ Vehicle Advisory Board created pursuant to section 9 of this act.

Sec. 4. ~~["Fund" means the Fund for Off Highway Vehicles created pursuant to section 8 of this act.]~~ (Deleted by amendment.)

Sec. 5. An owner of an off-highway vehicle that is acquired on or after January 1, 2008, shall, within 30 days after acquiring ownership of the off-highway vehicle, apply to the Department for the issuance of a certificate of title for the off-highway vehicle.

Sec. 6. 1. A certificate of operation issued or renewed in accordance with a regulation adopted pursuant to NRS 490.070:

(a) Is a class 1 certificate of operation if the owner of the off-highway vehicle provides proof to the Department that the owner has obtained a certificate of title from the Department for the off-highway vehicle. The fee for a class 1 certificate of operation is \$12.50, not including any fee charged and retained by an authorized dealer pursuant to NRS 490.070.

(b) Is a class 2 certificate of operation if the owner of the off-highway vehicle has not obtained a certificate of title from the Department for the off-highway vehicle. To obtain a class 2 certificate of operation, the owner must provide proof to the Department that the owner has obtained a certificate of verification of the vehicle identification number from the Department for the off-highway vehicle. The Department may charge and collect a fee for a certificate of verification of the vehicle identification number in an amount that is not more than the fee charged for a certificate of title. The fee for a class 2 certificate of operation is \$12.50, not including any fee charged and retained by an authorized dealer pursuant to NRS 490.070.

2. Except as otherwise provided in subsection 3, each certificate of operation is valid for 2 years after the date the certificate of operation is issued.

3. The Department shall not issue a class 2 certificate of operation on or after January 1, 2009. A class 2 certificate of operation that is issued before that date:

(a) May be renewed on or after that date; and

(b) If renewed, remains valid regardless of whether the owner of the off-highway vehicle sells or otherwise transfers ownership of the off-highway vehicle.

Sec. 7. In addition to any fee collected pursuant to section 6 of this act, the Department shall charge and collect a fee in the amount of \$12.50 from each person who is issued a class 1 or class 2 certificate of operation or whose class 1 or class 2 certificate of operation is renewed by the Department.

Sec. 8. ~~{1. The Fund for Off Highway Vehicles is hereby created in the State Treasury as a revolving fund. The Committee shall administer the Fund. All money received from the payment of fees pursuant to section 7 of this act must be deposited into the Fund.~~

~~2. Except as otherwise provided in subsection 3, the money in the Fund must only be used by the Committee in accordance with section 10 of this act.~~

~~3. The Committee may use not more than 10 percent of the money in the Fund for the reasonable administrative costs of the Committee.} (Deleted by amendment.)~~

Sec. 9. ~~{1. The Committee on Off Highway Vehicles is hereby created within the Division.~~

~~2. The Committee consists of:~~

~~(a) One voting member from the Division appointed by the Administrator of the Division;~~

~~(b) One voting member who represents the environment; and~~

~~(c) Six voting members who have participated in recreational activities for off highway vehicles for at least 5 years using the type of off highway vehicle they will represent, own or operate that type of off highway vehicle and reside in this State as follows:~~

~~(1) Two members who represent persons who own or operate all terrain vehicles, one from northern Nevada and one from southern Nevada;~~

~~(2) Two members who represent persons who own or operate all terrain motorcycles, one from northern Nevada and one from southern Nevada;~~

~~(3) One member who represents persons who own or operate snowmobiles; and~~

~~(4) One member who represents persons who own or operate any other type of off highway vehicle.~~

~~3. After the initial terms, each member of the Committee serves for a term of 2 years. A vacancy on the Committee must be filled in the same manner as the original appointment.~~

~~4. Not less than 30 days before the expiration of the term of a member of the Committee, a person who is qualified pursuant to subsection 2 to serve as a member of the Committee for that membership may, in the manner specified by the Governor, submit an application to the Governor for appointment to the Committee. After considering each application submitted pursuant to this subsection, the Governor shall appoint a member to the Committee from those applications. If the Governor does not receive an application for appointment to the Committee within that period, the Governor may appoint to the Committee any person who is qualified pursuant to subsection 2.~~

~~5. Except as otherwise provided in this subsection, a member of the Committee may not serve more than two terms on the Committee. A member who has served two terms on the Committee may be reappointed if the Governor does not receive any applications for that membership or if the~~

~~Governor determines that no qualified applicants are available for that membership.~~

~~6. Each member of the Committee is entitled to receive, if money is available for that purpose from the fees collected pursuant to section 7 of this act, the per diem allowance and travel expenses provided for state officers and employees generally.~~

~~7. The Committee may adopt regulations for the operation of the Committee. Upon request by the Committee, the Division shall provide assistance to the Committee in adopting those regulations.~~

~~8. As used in this section, "Division" means the Division of State Parks of the State Department of Conservation and Natural Resources.~~

1. The Off-Highway Vehicle Advisory Board, consisting of 13 members appointed by the Governor, is hereby created.

2. The Governor shall appoint to the Board:

(a) Seven members who reside in various geographical areas of this State, of which:

(1) One member must be a representative of a sportsmen's, hunting or agricultural organization of this State;

(2) One member must be a representative of a nationally recognized conservation organization in this State;

(3) One member must be a representative of an organization in this State interested in the promotion of off-highway vehicle activities;

(4) One member must be a representative of an organization in this State involved in training persons in the safe use of off-highway vehicles;

(5) One member must own or manage a business for the sale or repair of off-highway vehicles; and

(6) Two members of the public at large.

(b) One member who is a representative of the Bureau of Land Management;

(c) One member who is a representative of the Division of Environmental Protection of the State Department of Conservation and Natural Resources;

(d) One member who is a representative of the Division of State Parks of the State Department of Conservation and Natural Resources;

(e) One member who is a representative of the United States Forest Service;

(f) One member who is a representative of the Department of Wildlife; and

(g) One member who is a representative of the Commission on Tourism.

3. After the initial terms, the members of the Board appointed pursuant to paragraph (a) of subsection 2 shall serve terms of 2 years. All other members shall serve at the pleasure of the Governor.

4. Members of the Board shall serve without compensation but are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 10. ~~f1. The Committee shall:~~

~~(a) Elect a Chairman, Vice Chairman, Secretary and Treasurer from among its members;~~

~~(b) Meet at the call of the Chairman;~~

~~(c) Meet at least four times each year;~~

~~(d) Select four nonvoting advisors to the Committee to serve for terms of 2 years as follows:~~

~~(1) One advisor from the Bureau of Land Management;~~

~~(2) One advisor from the United States Forest Service;~~

~~(3) One advisor who is an authorized dealer; and~~

~~(4) One advisor from the general public;~~

~~(e) Adopt regulations setting forth the manner in which a person may submit a request for a grant of money from the Fund;~~

~~(f) Adopt regulations for awarding grants from the Fund;~~

~~(g) Adopt regulations for determining the acceptable performance of work on a project that is awarded a grant;~~

~~(h) Approve the completion of, and payment of money for, work performed on a project that is awarded a grant, if the Committee determines the work is acceptable; and~~

~~(i) Monitor the accounting activities of the Fund.~~

~~2. The Committee may award a grant of money from the Fund for:~~

~~(a) Projects relating to studies or planning for trails and facilities for use by owners and operators of off-highway vehicles;~~

~~(b) Projects relating to obtaining, enhancing and maintaining those trails and facilities; or~~

~~(c) Law enforcement, restoration, safety training and education relating to off-highway vehicles.~~

1. The Off-Highway Vehicle Advisory Board shall:

(a) At its first meeting and annually thereafter, elect a Chairman from among its members;

(b) Meet at least once each calendar quarter and as requested by the call of the Chairman;

(c) Study the need for:

(1) Designated off-highway vehicle roads and trails;

(2) Reclamation and restoration of existing trails, damaged land and wildlife habitats;

(3) Adopting a state-certified training course in off-highway vehicle safety to provide training in safe, responsible and ethical riding, proper machine sizing, proper weight distribution, proper handling and shifting and riding within a person's level of ability.

(d) Advise appropriate agencies at the local, state and federal level on policies, programs and the appropriate facilities needed for the safe use of off-highway vehicles.

2. The Board may apply for grants and accept gifts, grants or donations to assist the Board in carrying out its duties pursuant to this section.

3. The Department shall provide administrative support to the Board.

Sec. 11. NRS 490.010 is hereby amended to read as follows:

490.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 490.020 to 490.060, inclusive, ~~and~~ ~~sections~~ section 3 ~~and 4~~ of this act have the meanings ascribed to them in those sections.

Sec. 12. NRS 490.060 is hereby amended to read as follows:

490.060 1. "Off-highway vehicle" means a motor vehicle that is designed primarily for off-highway and all-terrain use. The term includes, but is not limited to:

- (a) An all-terrain vehicle;
- (b) An all-terrain motorcycle;
- (c) A dune buggy;
- (d) A snowmobile; and
- (e) Any motor vehicle used on public lands for the purpose of recreation.

2. The term does not include:

- (a) A motor vehicle designed primarily for use in water;
- (b) A motor vehicle that is registered by the Department ; ~~of Motor Vehicles;~~ or
- (c) A low-speed vehicle as defined in NRS 484.527.

Sec. 13. NRS 490.070 is hereby amended to read as follows:

490.070 1. Upon the request of a dealer of off-highway vehicles, the Department may authorize the dealer to ~~issue~~ *receive and submit to the Department applications for the issuance or renewal of certificates of operation or the issuance of certificates of title for off-highway vehicles .* ~~[pursuant to subsection 3.]~~

2. Each certificate of operation for an off-highway vehicle ~~issued by an authorized dealer~~ must be in the form of a sticker approved by the Department.

3. An authorized dealer shall:

(a) ~~[Upon the sale of]~~ *On or before the end of each month, submit to the Department each application for the issuance or renewal of a certificate of operation or issuance of certificate of title for an off-highway vehicle* ~~[-, issue to the purchaser of the off highway vehicle a certificate of operation for the off highway vehicle;~~

(b) ~~Upon request, issue a certificate of operation to a person who purchased the off highway vehicle before January 1, 2006;~~

(c) ~~Issue a certificate of operation to the owner of an off highway vehicle that was purchased outside this State on or after January 1, 2006, if the owner:~~

(1) ~~Requests the certificate of operation; and~~

(2) ~~Pays or submits evidence satisfactory to the authorized dealer that he has paid all taxes applicable in this State to the purchase of the off highway vehicle or submits an affidavit indicating that he purchased the vehicle through a private party sale and no tax is due relating to the purchase of the off highway vehicle;~~ *received during that month;*

(b) Except as otherwise provided in ~~paragraph (e) and~~ subsection 5, submit to the Department all fees collected by the authorized dealer from each applicant and properly account for those fees each month;

(c) ~~Submit to the State Treasurer for deposit into the Fund all fees charged and collected pursuant to section 7 of this act;~~

~~(d)~~ Comply with the regulations adopted pursuant to subsection 6; and

~~(e)~~ (d) Bear any cost of equipment which is required to ~~issue certificates~~ receive and submit to the Department an application for a certificate of operation ~~[-]~~ or certificate of title, including any computer software or hardware.

4. ~~An~~ Except as otherwise provided in subsection 5, an authorized dealer is not entitled to receive compensation ~~from the Department~~ for the performance of ~~those services~~ any services pursuant to this section.

5. An authorized dealer ~~shall not charge or~~ may charge and collect a fee of not more than \$2 for ~~issuing~~ each application for a certificate of operation ~~[-]~~ received by the authorized dealer pursuant to this section. An authorized dealer may retain any fee collected by the authorized dealer pursuant to this subsection.

6. The Department shall adopt regulations to carry out the provisions of this section. The regulations must include, without limitation, provisions for:

(a) The expedient and secure issuance of :

(1) Forms for applying for the issuance and renewal of certificates of operation or the issuance of certificates of title;

(2) Certificates of operation and certificates of title by the Department to ~~authorized dealers; and~~ each applicant whose application is approved by the Department; and

(3) Renewal notices for certificates of operation before the date of expiration of the certificates of operation;

(b) The renewal of certificates of operation by mail;

(c) The collection of a fee of not more than \$25 for the renewal of a certificate of operation;

(d) The submission in person at the Department of an application for:

(1) The issuance of a certificate of operation, certificate of title or certificate of verification of a vehicle identification number for an off-highway vehicle; or

(2) The renewal of a certificate of operation for an off-highway vehicle;

(e) The replacement of a lost or damaged certificate of operation or certificate of title;

(f) The imposition of an administrative fine in the amount of \$25 for each failure by an owner of an off-highway vehicle to obtain, within 30 days after acquiring ownership of the off-highway vehicle:

(1) A certificate of operation for the off-highway vehicle; and

(2) A certificate of title or certificate of verification of the vehicle identification number for the off-highway vehicle;

(g) *Except as otherwise provided in paragraph (f), the imposition of an administrative fine in the amount of \$100 for each failure by an owner of an off-highway vehicle to obtain, within 1 year after acquiring ownership of the off-highway vehicle:*

(1) *A certificate of operation for the off-highway vehicle; and*

(2) *A certificate of title or certificate of verification of the vehicle identification number for the off-highway vehicle;*

(h) *The imposition of an administrative fine in the amount \$25 for each failure by an owner of an off-highway vehicle to renew the certificate of operation for the off-highway vehicle within 30 days after the date of expiration of the certificate of operation; and*

(i) *The revocation of the authorization granted to a dealer pursuant to subsection 1 if the authorized dealer fails to comply with the regulations.*

7. *The fee for issuing a certificate of title for an off-highway vehicle must not exceed the fee imposed for issuing a certificate of title pursuant to NRS 482.429.*

8. *The Department shall afford an opportunity for a hearing pursuant to NRS 233B.121 to any person who is fined pursuant to a regulation adopted pursuant to paragraph (f), (g) or (h) of subsection 6.*

Sec. 14. NRS 490.080 is hereby amended to read as follows:

490.080 1. Except as otherwise provided in subsection ~~{4,}~~ 3, a person shall not operate an off-highway vehicle ~~for a highway pursuant to NRS 490.090 to 490.130, inclusive,~~ in this State unless he has:

(a) Obtained a certificate of operation for the off-highway vehicle; and

(b) Attached the certificate to the off-highway vehicle in the manner specified by the Department.

2. ~~{If a certificate of operation for}~~ *Except as otherwise provided in subsection 3, each owner of an off-highway vehicle ~~is lost or destroyed, the owner~~ shall, within 30 days after he acquires ownership of the off-highway vehicle ~~{may request a new}~~, apply to an authorized dealer or in person at the Department for the issuance of a certificate of operation ~~{from an authorized dealer}.~~*

3. ~~If the owner of an off-highway vehicle sells or otherwise transfers ownership of} for the off-highway vehicle . ~~{, the certificate of operation remains valid.}~~~~

~~4.}~~ 3. A certificate of operation is not required for an off-highway vehicle which:

(a) Is owned and operated by:

(1) A federal agency;

(2) An agency of this State; or

(3) A county, incorporated city or unincorporated town in this State;

(b) *Has an engine having a displacement of not more than 90 cubic centimeters;*

(c) *Is used solely for racing on a private or closed race course for off-highway vehicles;*

(d) Is part of the inventory of a dealer of off-highway vehicles;

~~[(e)]~~ (e) Was manufactured before January 1, 1976;

(f) Is registered or certified in another state and is located in this State for not more than 90 days;

~~[(d)]~~ (g) Is used solely for husbandry on private land or on public land that is leased to the owner or operator of the off-highway vehicle; or

~~[(e)]~~ (h) Is used for work conducted by or at the direction of a public or private utility.

4. Except as otherwise provided in NRS 490.070, if a person violates a provision of this section, the Department shall impose against the person an administrative fine of not more than \$250. The Department shall afford to any person so fined an opportunity for a hearing pursuant to NRS 233B.121.

Sec. 15. NRS 490.030 is hereby repealed.

Sec. 16. 1. Any dealer of off-highway vehicles who is an authorized dealer pursuant to NRS 490.070 before January 1, 2008, shall be deemed to be an authorized dealer by the Department of Motor Vehicles pursuant to that section, as amended by this act.

2. Any certificate of operation issued for an off-highway vehicle by the Department of Taxation before January 1, 2008, shall be deemed to be a class 2 certificate of operation issued for an off-highway vehicle by the Department of Motor Vehicles for the purposes of paragraph (b) of subsection 1 of section 6 of this act.

3. The regulations adopted by the Department of Taxation pursuant to NRS 490.070 become the regulations of the Department of Motor Vehicles on January 1, 2008, and, to the extent that the regulations are consistent with the amendatory provisions of this act, remain in effect until amended or repealed by the Department of Motor Vehicles.

Sec. 17. 1. As soon as practicable after the effective date of this section, the Governor shall solicit applications for the appointment of the members of the ~~[Committee on]~~ Off-Highway ~~[Vehicles]~~ Vehicle Advisory Board created pursuant to section 9 of this act.

2. As soon as practicable after July 1, 2007, the Governor shall, after considering each application received pursuant to subsection 1, appoint the members of the ~~[Committee on]~~ Off-Highway ~~[Vehicles]~~ Vehicle Advisory Board who are qualified pursuant to ~~paragraphs (b) and (c)]~~ paragraph (a) of subsection 2 of section 9 of this act to initial terms as follows:

(a) ~~[(Three)]~~ The members listed in subparagraphs (1), (2) and (3) to terms that expire on January 1, 2009; and

(b) ~~[(Four)]~~ The members listed in subparagraphs (4), (5) and (6) to terms that expire on January 1, 2010.

~~3. As soon as practicable after July 1, 2007, the Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources shall appoint the member of the Committee on Off-Highway Vehicles specified in paragraph (a) of subsection 2 of section 9 of this act to an initial term that expires on January 1, 2009.]~~

Sec. 18. This act becomes effective:

1. Upon passage and approval for purposes of:

(a) The appointment by the Governor ~~[and the Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources]~~ of the members of the ~~[Committee on]~~ Off-Highway ~~[Vehicles]~~ *Vehicle Advisory Board* created pursuant to section 9 of this act; and

(b) The adoption of regulations to carry out the provisions of this act; and

2. On January 1, 2008, for all other purposes.

TEXT OF REPEALED SECTION

490.030 "Department" defined. "Department" means the Department of Taxation.

Senator Nolan moved the adoption of the amendment.

Remarks by Senators Nolan and Coffin.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 471.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 358.

"SUMMARY—Revises provisions relating to ~~[the registration of]~~ sex offenders and offenders convicted of a crime against a child. (BDR 14-1426)"

"AN ACT relating to public safety; revising the provisions concerning certain sex offenders who are on lifetime supervision or released on parole, probation or a suspended sentence; requiring incarcerated sex offenders and offenders convicted of a crime against a child to register with a local law enforcement agency before being released from prison; requiring sex offenders and offenders convicted of a crime against a child who have not provided a biological specimen to provide a biological specimen at the time of registration with a local law enforcement agency; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth certain conditions to be imposed on sex offenders placed under a program of lifetime supervision or released on parole, probation or a suspended sentence. (NRS 176A.410, 213.1243, 213.1245, 213.1255) Under sections 1, 6 and 7 of this bill, if an offender is: (1) convicted of certain crimes against a child under the age of 14 years; (2) assigned a Tier 3 level of notification; and (3) placed under a program of lifetime supervision or released on parole, probation or a suspended sentence, the offender must be placed under a system of active electronic monitoring if the Chief Parole and Probation Officer deems such monitoring appropriate. Sections 1, 6 and 7 further require an offender placed under a system of active electronic monitoring to pay to the extent of his ability any costs associated with such monitoring. Finally, sections 1, 6 and 7 prohibit a

person from removing or disabling an electronic monitoring device without authorization.

Existing law requires a sex offender or an offender convicted of a crime against a child to register with a local law enforcement agency within 48 hours after arriving or establishing a residence in the jurisdiction of the local law enforcement agency. (NRS 179D.240, NRS 179D.460) Section ~~11~~ 2 of this bill requires an incarcerated offender convicted of a crime against a child to register, before being released from prison, with the appropriate local law enforcement agency in whose jurisdiction the offender will be a resident offender upon release. Section ~~33~~ 4 of this bill requires an incarcerated sex offender to register, before being released, with the appropriate law enforcement agency in whose jurisdiction the sex offender will be a resident sex offender upon release.

Existing law requires a court to order, at sentencing, that a biological specimen be obtained from a person convicted of certain crimes. (NRS 176.0913) Section ~~23~~ 3 of this bill requires an offender convicted of a crime against a child to provide a biological specimen at the time the offender registers with a local law enforcement agency if the offender has not already provided a biological specimen. Section ~~44~~ 5 of this bill requires a sex offender to provide a biological specimen at the time the sex offender registers with a local law enforcement agency if the sex offender has not already provided a biological specimen.

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

Section 1. NRS 176A.410 is hereby amended to read as follows:

176A.410 1. Except as otherwise provided in subsection ~~33~~ 6, if a defendant is convicted of a sexual offense and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension of sentence that the defendant:

(a) Submit to a search and seizure of his person, residence or vehicle or any property under his control, at any time of the day or night, without a warrant, by any parole and probation officer or any peace officer, for the purpose of determining whether the defendant has violated any condition of probation or suspension of sentence or committed any crime;

(b) Reside at a location only if it has been approved by the parole and probation officer assigned to the defendant and keep the parole and probation officer informed of his current address;

(c) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the defendant and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer;

(d) Abide by any curfew imposed by the parole and probation officer assigned to the defendant;

(e) Participate in and complete a program of professional counseling approved by the Division;

(f) Submit to periodic tests, as requested by the parole and probation officer assigned to the defendant, to determine whether the defendant is using a controlled substance;

(g) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the defendant;

(h) Abstain from consuming, possessing or having under his control any alcohol;

(i) Not have contact or communicate with a victim of the sexual offense or a witness who testified against the defendant or solicit another person to engage in such contact or communication on behalf of the defendant, unless approved by the parole and probation officer assigned to the defendant, and a written agreement is entered into and signed in the manner set forth in subsection 2;

(j) Not use aliases or fictitious names;

(k) Not obtain a post office box unless the defendant receives permission from the parole and probation officer assigned to the defendant;

(l) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of a sexual offense is present and permission has been obtained from the parole and probation officer assigned to the defendant in advance of each such contact;

(m) Unless approved by the parole and probation officer assigned to the defendant and by a psychiatrist, psychologist or counselor treating the defendant, if any, not be in or near:

(1) A playground, park, school or school grounds;

(2) A motion picture theater; or

(3) A business that primarily has children as customers or conducts events that primarily children attend;

(n) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication;

(o) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the defendant;

(p) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the defendant;

(q) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the defendant; and

(r) Inform the parole and probation officer assigned to the defendant if the defendant expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph,

"institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. Except as otherwise provided in subsection 6, if a defendant is convicted of an offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the defendant is assigned a Tier 3 level of notification and the court grants probation or suspends the sentence of the defendant, the court shall, in addition to any other condition ordered pursuant to subsection 1, order as a condition of probation or suspension of sentence that the defendant:

(a) As deemed appropriate by the Chief Parole and Probation Officer, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

(b) Pay any costs associated with his participation in the system of active electronic monitoring, to the extent of his ability to pay.

3. A defendant placed under the system of active electronic monitoring pursuant to subsection 2 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation in the system of active electronic monitoring.

4. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a defendant pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

5. A written agreement entered into pursuant to paragraph (i) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

- (a) The victim or the witness;
- (b) The defendant;
- (c) The parole and probation officer assigned to the defendant;
- (d) The psychiatrist, psychologist or counselor treating the defendant, victim or witness, if any; and
- (e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.

~~3. 6.~~ 6. The court is not required to impose a condition of probation or suspension of sentence listed in ~~subsection~~ subsections 1 and 2 if the court

finds that extraordinary circumstances are present and the court enters those extraordinary circumstances in the record.

~~[4.]~~ 7. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.410.

~~[Section 1.]~~ *Sec. 2.* NRS 179D.230 is hereby amended to read as follows:

179D.230 1. If the Central Repository receives notice from a court pursuant to NRS 176.0926 that an offender has been convicted of a crime against a child, the Central Repository shall:

(a) If a record of registration has not previously been established for the offender, notify the local law enforcement agency so that a record of registration may be established; or

(b) If a record of registration has previously been established for the offender, update the record of registration for the offender and notify the appropriate local law enforcement agencies.

2. If the offender named in the notice is granted probation or otherwise will not be incarcerated or confined, the Central Repository shall immediately provide notification concerning the offender to the appropriate local law enforcement agencies and, if the offender resides in a jurisdiction which is outside of this State, to the appropriate law enforcement agency in that jurisdiction.

3. If an offender is incarcerated or confined and has previously been convicted of a crime against a child, before the offender is released:

(a) The Department of Corrections or a local law enforcement agency in whose facility the offender is incarcerated or confined shall:

(1) Inform the offender of the requirements for registration, including, but not limited to:

(I) The duty to register in this State during any period in which he is a resident of this State or a nonresident who is a student or worker within this State and the time within which he is required to register pursuant to NRS 179D.240;

(II) The duty to register in any other jurisdiction during any period in which he is a resident of the other jurisdiction or a nonresident who is a student or worker within the other jurisdiction;

(III) If he moves from this State to another jurisdiction, the duty to register with the appropriate law enforcement agency in the other jurisdiction;

(IV) The duty to notify the local law enforcement agency for the jurisdiction in which he now resides, in person, and the jurisdiction in which he most recently resided, in person or in writing, if he changes the address at which he resides, including if he moves from this State to another jurisdiction, or changes the primary address at which he is a student or worker; and

(V) The duty to notify immediately the appropriate local law enforcement agency if the offender is, expects to be or becomes enrolled as a

student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education or if the offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education; and

(2) Require the offender to read and sign a form confirming that the requirements for registration have been explained to him and to forward the form to the Central Repository.

(b) The Central Repository shall:

(1) Update the record of registration for the offender; and

(2) Provide notification concerning the offender to the appropriate local law enforcement agencies and, if the offender will reside upon release in a jurisdiction which is outside of this State, to the appropriate law enforcement agency in that jurisdiction.

4. *If an offender convicted of a crime against a child is incarcerated or confined, before the offender is released, the offender shall register, pursuant to 179D.240, with the appropriate sheriff's office, metropolitan police department or city police department in whose jurisdiction the offender will be a resident offender.*

5. The failure to provide an offender with the information or confirmation form required by paragraph (a) of subsection 3 does not affect the duty of the offender to register and to comply with all other provisions for registration.

~~{5-}~~ 6. If the Central Repository receives notice from another jurisdiction or the Federal Bureau of Investigation that an offender convicted of a crime against a child is now residing or is a student or worker within this State, the Central Repository shall:

(a) Immediately provide notification concerning the offender to the appropriate local law enforcement agencies; and

(b) Establish a record of registration for the offender with the assistance of the local law enforcement agency.

~~{Sec-2-}~~ Sec. 3. NRS 179D.240 is hereby amended to read as follows:

179D.240 1. In addition to any other registration that is required pursuant to NRS 179D.230, each offender who, after July 1, 1956, is or has been convicted of a crime against a child shall register with a local law enforcement agency pursuant to the provisions of this section.

2. Except as otherwise provided in subsection 3, if the offender resides or is present for 48 hours or more within:

(a) A county; or

(b) An incorporated city that does not have a city police department,
 ➔ the offender shall be deemed a resident offender and shall register with the sheriff's office of the county or, if the county or the city is within the jurisdiction of a metropolitan police department, the metropolitan police department, not later than 48 hours after arriving or establishing a residence within the county or the city.

3. If the offender resides or is present for 48 hours or more within an incorporated city that has a city police department, the offender shall be deemed a resident offender and shall register with the city police department not later than 48 hours after arriving or establishing a residence within the city.

4. If the offender is a nonresident offender who is a student or worker within this State, the offender shall register with the appropriate sheriff's office, metropolitan police department or city police department in whose jurisdiction he is a student or worker not later than 48 hours after becoming a student or worker within this State.

5. A resident or nonresident offender shall immediately notify the appropriate local law enforcement agency if:

(a) The offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education; or

(b) The offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education.

➔ The offender shall provide the name, address and type of each such institution of higher education.

6. To register with a local law enforcement agency pursuant to this section, the offender shall:

(a) ~~[Appear]~~ *Unless the offender is incarcerated or confined and required to register pursuant to subsection 4 of NRS 179D.230, appear personally at the office of the appropriate local law enforcement agency;*

(b) Provide all information that is requested by the local law enforcement agency, including, but not limited to, fingerprints and a photograph; ~~[and]~~

(c) *If the offender has not provided a biological specimen pursuant to NRS 176.0913 or 176.0916, provide a biological specimen to the local law enforcement agency; and*

(d) Sign and date the record of registration or some other proof of registration in the presence of an officer of the local law enforcement agency ~~[or in the presence of an officer of the institution or facility in which the offender is incarcerated or confined]~~.

7. *If an offender convicted of a crime against a child must provide a biological specimen pursuant to paragraph (c) of subsection 6, the local law enforcement agency shall arrange for the biological specimen to be obtained from the offender. The local law enforcement agency shall provide the specimen to the forensic laboratory that has been designated by the county in which the offender resides or is present to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917.*

8. When an offender registers, the local law enforcement agency shall:

(a) Inform the offender of the duty to notify the local law enforcement agency if the offender changes the address at which he resides or changes the primary address at which he is a student or worker; and

(b) Inform the offender of the duty to register with the local law enforcement agency in whose jurisdiction the offender relocates.

~~{8-}~~ 9. After the offender registers with the local law enforcement agency, the local law enforcement agency shall forward to the Central Repository the information collected, including the fingerprints and a photograph of the offender.

~~{9-}~~ 10. If the Central Repository has not previously established a record of registration for an offender described in subsection ~~{8-}~~ 9, the Central Repository shall:

- (a) Establish a record of registration for the offender; and
- (b) Provide notification concerning the offender to the appropriate local law enforcement agencies.

~~{10-}~~ 11. When an offender notifies a local law enforcement agency that:

(a) The offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education; or

(b) The offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education,

→ and provides the name, address and type of each such institution of higher education, the local law enforcement agency shall immediately provide that information to the Central Repository and to the appropriate campus police department.

~~{Sec. 3-}~~ Sec. 4. NRS 179D.450 is hereby amended to read as follows:

179D.450 1. If the Central Repository receives notice from a court pursuant to NRS 176.0927 that a sex offender has been convicted of a sexual offense or pursuant to NRS 62F.250 that a juvenile sex offender has been deemed to be an adult sex offender, the Central Repository shall:

(a) If a record of registration has not previously been established for the sex offender, notify the local law enforcement agency so that a record of registration may be established; or

(b) If a record of registration has previously been established for the sex offender, update the record of registration for the sex offender and notify the appropriate local law enforcement agencies.

2. If the sex offender named in the notice is granted probation or otherwise will not be incarcerated or confined or if the sex offender named in the notice has been deemed to be an adult sex offender pursuant to NRS 62F.250 and is not otherwise incarcerated or confined:

(a) The Central Repository shall immediately provide notification concerning the sex offender to the appropriate local law enforcement agencies and, if the sex offender resides in a jurisdiction which is outside of this State, to the appropriate law enforcement agency in that jurisdiction; and

(b) If the sex offender is subject to community notification, the Central Repository shall arrange for the assessment of the risk of recidivism of the sex offender pursuant to the guidelines and procedures for community

notification established by the Attorney General pursuant to NRS 179D.600 to 179D.800, inclusive.

3. If a sex offender is incarcerated or confined and has previously been convicted of a sexual offense as described in NRS 179D.410, before the sex offender is released:

(a) The Department of Corrections or a local law enforcement agency in whose facility the sex offender is incarcerated or confined shall:

(1) Inform the sex offender of the requirements for registration, including, but not limited to:

(I) The duty to register in this State during any period in which he is a resident of this State or a nonresident who is a student or worker within this State and the time within which he is required to register pursuant to NRS 179D.460;

(II) The duty to register in any other jurisdiction during any period in which he is a resident of the other jurisdiction or a nonresident who is a student or worker within the other jurisdiction;

(III) If he moves from this State to another jurisdiction, the duty to register with the appropriate law enforcement agency in the other jurisdiction;

(IV) The duty to notify the local law enforcement agency for the jurisdiction in which he now resides, in person, and the jurisdiction in which he formerly resided, in person or in writing, if he changes the address at which he resides, including if he moves from this State to another jurisdiction, or changes the primary address at which he is a student or worker; and

(V) The duty to notify immediately the appropriate local law enforcement agency if the sex offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education or if the sex offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education; and

(2) Require the sex offender to read and sign a form confirming that the requirements for registration have been explained to him and to forward the form to the Central Repository.

(b) The Central Repository shall:

(1) Update the record of registration for the sex offender;

(2) If the sex offender is subject to community notification, arrange for the assessment of the risk of recidivism of the sex offender pursuant to the guidelines and procedures for community notification established by the Attorney General pursuant to NRS 179D.600 to 179D.800, inclusive; and

(3) Provide notification concerning the sex offender to the appropriate local law enforcement agencies and, if the sex offender will reside upon release in a jurisdiction which is outside of this State, to the appropriate law enforcement agency in that jurisdiction.

4. *If a sex offender is incarcerated or confined, before the sex offender is released, the sex offender shall register, pursuant to NRS 179D.460, with the appropriate sheriff's office, metropolitan police department or city police department in whose jurisdiction the sex offender will be a resident sex offender.*

5. The failure to provide a sex offender with the information or confirmation form required by paragraph (a) of subsection 3 does not affect the duty of the sex offender to register and to comply with all other provisions for registration.

~~{§-}~~ 6. If the Central Repository receives notice from another jurisdiction or the Federal Bureau of Investigation that a sex offender is now residing or is a student or worker within this State, the Central Repository shall:

(a) Immediately provide notification concerning the sex offender to the appropriate local law enforcement agencies;

(b) Establish a record of registration for the sex offender; and

(c) If the sex offender is subject to community notification, arrange for the assessment of the risk of recidivism of the sex offender pursuant to the guidelines and procedures for community notification established by the Attorney General pursuant to NRS 179D.600 to 179D.800, inclusive.

~~{Sec-4-}~~ Sec. 5. NRS 179D.460 is hereby amended to read as follows:
179D.460 1. In addition to any other registration that is required pursuant to NRS 179D.450, each sex offender who, after July 1, 1956, is or has been convicted of a sexual offense shall register with a local law enforcement agency pursuant to the provisions of this section.

2. Except as otherwise provided in subsection 3, if the sex offender resides or is present for 48 hours or more within:

(a) A county; or

(b) An incorporated city that does not have a city police department,
→ the sex offender shall be deemed a resident sex offender and shall register with the sheriff's office of the county or, if the county or the city is within the jurisdiction of a metropolitan police department, the metropolitan police department, not later than 48 hours after arriving or establishing a residence within the county or the city.

3. If the sex offender resides or is present for 48 hours or more within an incorporated city that has a city police department, the sex offender shall be deemed a resident sex offender and shall register with the city police department not later than 48 hours after arriving or establishing a residence within the city.

4. If the sex offender is a nonresident sex offender who is a student or worker within this State, the sex offender shall register with the appropriate sheriff's office, metropolitan police department or city police department in whose jurisdiction he is a student or worker not later than 48 hours after becoming a student or worker within this State.

5. A resident or nonresident sex offender shall immediately notify the appropriate local law enforcement agency if:

(a) The sex offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education; or

(b) The sex offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education.

➔ The sex offender shall provide the name, address and type of each such institution of higher education.

6. To register with a local law enforcement agency pursuant to this section, the sex offender shall:

(a) ~~Appear~~ *Unless the sex offender is incarcerated or confined and required to register pursuant to subsection 4 of NRS 179D.450, appear personally at the office of the appropriate local law enforcement agency;*

(b) Provide all information that is requested by the local law enforcement agency, including, but not limited to, fingerprints and a photograph; ~~and~~

(c) *If the sex offender has not provided a biological specimen pursuant to NRS 176.0913 or 176.0916, provide a biological specimen to the local law enforcement agency; and*

(d) Sign and date the record of registration or some other proof of registration of the local law enforcement agency in the presence of an officer of the local law enforcement agency ~~[-]~~ *or in the presence of an officer of the institution or facility in which the sex offender is incarcerated or confined.*

7. *If a sex offender must provide a biological specimen pursuant to paragraph (c) of subsection 6, the local law enforcement agency shall arrange for the biological specimen to be obtained from the sex offender. The local law enforcement agency shall provide the specimen to the forensic laboratory that has been designated by the county in which the sex offender resides or is present to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917.*

8. When a sex offender registers, the local law enforcement agency shall:

(a) Inform the sex offender of the duty to notify the local law enforcement agency if the sex offender changes the address at which he resides, including if he moves from this State to another jurisdiction, or changes the primary address at which he is a student or worker; and

(b) Inform the sex offender of the duty to register with the local law enforcement agency in whose jurisdiction the sex offender relocates.

~~[8-]~~ 9. After the sex offender registers with the local law enforcement agency, the local law enforcement agency shall forward to the Central Repository the information collected, including the fingerprints and a photograph of the sex offender.

~~[9-]~~ 10. If the Central Repository has not previously established a record of registration for a sex offender described in subsection ~~[8-]~~ 9, the Central Repository shall:

(a) Establish a record of registration for the sex offender;

(b) Provide notification concerning the sex offender to the appropriate local law enforcement agencies; and

(c) If the sex offender is subject to community notification and has not otherwise been assigned a level of notification, arrange for the assessment of the risk of recidivism of the sex offender pursuant to the guidelines and procedures for community notification established by the Attorney General pursuant to NRS 179D.600 to 179D.800, inclusive.

~~[10.]~~ 11. When a sex offender notifies a local law enforcement agency that:

(a) The sex offender is, expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education; or

(b) The sex offender is, expects to be or becomes a worker at an institution of higher education or changes the date of commencement or termination of his work at an institution of higher education,

↪ and provides the name, address and type of each such institution of higher education, the local law enforcement agency shall immediately provide that information to the Central Repository and to the appropriate campus police department.

Sec. 6. NRS 213.1243 is hereby amended to read as follows:

213.1243 1. The Board shall establish by regulation a program of lifetime supervision of sex offenders to commence after any period of probation or any term of imprisonment and any period of release on parole. The program must provide for the lifetime supervision of sex offenders by parole and probation officers.

2. Lifetime supervision shall be deemed a form of parole for:

(a) The limited purposes of the applicability of the provisions of NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and subsection 2 of NRS 213.110; and

(b) The purposes of the Interstate Compact for Adult Offender Supervision ratified, enacted and entered into by the State of Nevada pursuant to NRS 213.215.

3. Except as otherwise provided in subsection 7, if a person is convicted of a sexual offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the person is assigned a Tier 3 level of notification and the person is sentenced to lifetime supervision, the Board shall require as a condition of lifetime supervision that the person:

(a) As deemed appropriate by the Chief, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

(b) Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

4. A person placed under the system of active electronic monitoring pursuant to subsection 3 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.

5. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a person pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

6. Except as otherwise provided in subsection 5, a person who commits a violation of a condition imposed on him pursuant to the program of lifetime supervision is guilty of:

(a) If the violation constitutes a minor violation, a misdemeanor.

(b) If the violation constitutes a major violation, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

~~{4.}~~ 7. The Board is not required to impose a condition pursuant to the program of lifetime supervision listed in subsection 3 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

8. For the purposes of prosecution of a violation by a person of a condition imposed upon him pursuant to the program of lifetime supervision, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of lifetime supervision pursuant to NRS 176.0931 is located, regardless of whether the acts or conduct constituting the violation took place, in whole or in part, within or outside that county or within or outside this State.

~~{5.}~~ 9. As used in this section:

(a) "Major violation" means a violation which poses a threat to the safety or well-being of others and which involves:

(1) The commission of any crime that is punishable as a gross misdemeanor or felony or any crime that involves a victim who is less than 18 years of age;

(2) The use of a deadly weapon, explosives or a firearm;

(3) The use or threatened use of force or violence against a person;

(4) Death or bodily injury of a person;

(5) An act of domestic violence;

(6) Harassment, stalking or threats of any kind; or

(7) The forcible or unlawful entry of a home, building, structure or vehicle in which a person is present.

(b) "Minor violation" means a violation that does not constitute a major violation.

Sec. 7. NRS 213.1255 is hereby amended to read as follows:

213.1255 1. Except as otherwise provided in subsection 4, in addition to any conditions of parole required to be imposed pursuant to NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection 6 against a child under the age of 14 years and who has been assigned a Tier 3 level of notification, the Board shall require that the parolee:

(a) As deemed appropriate by the Chief, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

(b) Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

2. A parolee placed under the system of active electronic monitoring pursuant to subsection 1 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.

3. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a parolee pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

4. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

5. In addition to any conditions of parole required to be imposed pursuant to subsection 1 and NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection ~~6~~ 6 against a child under the age of 14 years, the Board shall, when appropriate:

(a) Require the parolee to participate in psychological counseling;

(b) Prohibit the parolee from being alone with a child unless another adult who has never been convicted of a sexual offense is present; and

(c) Prohibit the parolee from being on or near the grounds of any place that is primarily designed for use by or for children, including, without limitation, a public or private school, a center or facility that provides day care services, a video arcade and an amusement park.

~~[2.]~~ 6. The provisions of ~~[subsection]~~ subsections 1 and 5 apply to a prisoner who was convicted of:

(a) Sexual assault pursuant to paragraph (c) of subsection 3 of NRS 200.366;

(b) Abuse or neglect of a child pursuant to subparagraph (1) of paragraph (a) of subsection 1 or subparagraph (1) of paragraph (a) of subsection 2 of NRS 200.508;

(c) An offense punishable pursuant to subsection 2 of NRS 200.750;

(d) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 201.195;

(e) Lewdness with a child pursuant to NRS 201.230;

(f) Luring a child or mentally ill person pursuant to NRS 201.560, if punished as a felony; or

(g) Any combination of the crimes listed in paragraphs (a) to (f), inclusive.

~~[Sec. 5.]~~ Sec. 8. The provisions of subsection 1 of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of sections ~~[2]~~ 3 and ~~[4]~~ 5 of this act.

Sec. 9. The amendatory provisions of:

1. Section 1 of this act apply to a person who is granted probation or a suspension of sentence before, on or after October 1, 2007.

2. Section 6 of this act apply to a person who is placed under a program of lifetime supervision before, on or after October 1, 2007; and

3. Section 7 of this act apply to a person who is released on parole before, on or after October 1, 2007.

Senator Amodei moved the adoption of the amendment.

Remarks by Senators Amodei and Titus.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Senate Bill No. 232 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 380 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 434 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 471 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Nolan moved that Senate Bill No. 62 be taken from the General File and placed on the Secretary's desk.

Remarks by Senator Nolan.

Motion carried.

Senator Raggio moved that the Senate recess until 6 p.m.

Motion carried.

Senate in recess at 4 p.m.

SENATE IN SESSION

At 7:26 p.m.

President Krolicki presiding.

Quorum present.

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 23, 2007

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 376.

GARY GHIGGERI
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Nolan moved to withdraw Amendment No. 603 from Senate Bill No. 41 and take the bill from the Second Reading File and place it on the Secretary's desk.

Remarks by Senator Nolan.

Motion carried.

Senator Hardy moved that Senate Bill No. 516 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Remarks by Senator Hardy.

Motion carried.

Senator Amodei moved that Senate Bill No. 299 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Remarks by Senator Amodei.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 60.

Bill read second time.

The following amendment was proposed by Senator Lee:

Amendment No. 581.

"SUMMARY—~~[Increases the maximum amount of]~~ *Establishes requirements concerning the expenditure of* proceeds collected from administrative penalties ~~[that may be retained by a local]~~ *for certain violations concerning the control of* air pollution ~~[control board.]~~ (BDR 40-347)"

"AN ACT relating to the control of air pollution; ~~[increasing the maximum amount of]~~ *authorizing the school district in certain counties to expend* the proceeds collected from *certain* administrative penalties ~~[that may be retained by]~~ *only in accordance with a spending plan approved by* a local air pollution control board ; *requiring a local air pollution control board to approve such a plan* under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a local air pollution control board in a county whose population is 400,000 or more (currently Clark County) may delegate its authority to adjudicate violations of air quality laws and levy administrative penalties to an independent hearing officer or hearing board. A local air pollution control board that makes this delegation may retain 17.5 percent of the amount of the proceeds from the administrative penalties that it collects up to a maximum of \$17,500 per year. The remainder of the proceeds are turned over to the county school district. (NRS 445B.500) This bill ~~[increases to \$400,000 the maximum amount]~~ *authorizes the school district to expend its share* of the proceeds from administrative penalties ~~[that may be retained by]~~ *only in accordance with a spending plan that is approved by* the local air pollution control board. *The board is required to approve such a spending plan if its proposed expenditures are reasonable and limited to: (1) programs of education on topics relating to air quality; and (2) projects to improve air quality, such as the purchase and installation of equipment to retrofit school buses of the school district to use biodiesel, compressed natural gas or a similar fuel formulated to reduce emissions.*

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

Section 1. NRS 445B.500 is hereby amended to read as follows:

445B.500 1. Except as otherwise provided in this section and in NRS 445B.310:

(a) The district board of health, county board of health or board of county commissioners in each county whose population is 100,000 or more shall

establish a program for the control of air pollution and administer the program within its jurisdiction unless superseded.

(b) The program:

(1) Must include, without limitation, standards for the control of emissions, emergency procedures and variance procedures established by ordinance or local regulation which are equivalent to or stricter than those established by statute or state regulation;

(2) May, in a county whose population is 400,000 or more, include requirements for the creation, receipt and exchange for consideration of credits to reduce and control air contaminants in accordance with NRS 445B.508; and

(3) Must provide for adequate administration, enforcement, financing and staff.

(c) The district board of health, county board of health or board of county commissioners is designated as the air pollution control agency of the county for the purposes of NRS 445B.100 to 445B.640, inclusive, and the Federal Act insofar as it pertains to local programs, and that agency is authorized to take all action necessary to secure for the county the benefits of the Federal Act.

(d) Powers and responsibilities provided for in NRS 445B.210, 445B.240 to 445B.470, inclusive, 445B.560, 445B.570, 445B.580 and 445B.640 are binding upon and inure to the benefit of local air pollution control authorities within their jurisdiction.

2. The local air pollution control board shall carry out all provisions of NRS 445B.215 with the exception that notices of public hearings must be given in any newspaper, qualified pursuant to the provisions of chapter 238 of NRS, once a week for 3 weeks. The notice must specify with particularity the reasons for the proposed regulations and provide other informative details. NRS 445B.215 does not apply to the adoption of existing regulations upon transfer of authority as provided in NRS 445B.610.

3. In a county whose population is 400,000 or more, the local air pollution control board may delegate to an independent hearing officer or hearing board its authority to determine violations and levy administrative penalties for violations of the provisions of NRS 445B.100 to 445B.450, inclusive, and 445B.500 to 445B.640, inclusive, or any regulation adopted pursuant to those sections. If such a delegation is made, 17.5 percent of any penalty collected must be deposited in the county treasury in an account to be administered by the local air pollution control board to a maximum of \$17,500 ~~/\$400,000/~~ per year. The money in the account may only be used to defray the administrative expenses incurred by the local air pollution control board in enforcing the provisions of NRS 445B.100 to 445B.640, inclusive. The remainder of the penalty must be deposited in the county school district fund of the county where the violation occurred ~~and~~ and must be accounted for separately in the fund. A school district may spend the money received pursuant to this section only in accordance with an annual spending plan

that is approved by the local air pollution control board and shall submit an annual report to that board detailing the expenditures of the school district under the plan. A local air pollution control board shall approve an annual spending plan if the proposed expenditures set forth in the plan are reasonable and limited to:

(a) Programs of education on topics relating to air quality; and

(b) Projects to improve air quality, including, without limitation, the purchase and installation of equipment to retrofit school buses of the school district to use biodiesel, compressed natural gas or a similar fuel formulated to reduce emissions from the amount of emissions produced by the use of traditional fuels such as gasoline and diesel fuel,

↪ which are consistent with the state implementation plan adopted by this State pursuant to 42 U.S.C. §§ 7410 and 7502.

4. Any county whose population is less than 100,000 or any city may meet the requirements of this section for administration and enforcement through cooperative or interlocal agreement with one or more other counties, or through agreement with the State, or may establish its own program for the control of air pollution. If the county establishes such a program, it is subject to the approval of the Commission.

5. No district board of health, county board of health or board of county commissioners may adopt any regulation or establish a compliance schedule, variance order or other enforcement action relating to the control of emissions from plants which generate electricity by using steam produced by the burning of fossil fuel.

6. ~~For the purposes of~~ As used in this section, "plants which generate electricity by using steam produced by the burning of fossil fuel" means plants that burn fossil fuels in a boiler to produce steam for the production of electricity. The term does not include any plant which uses technology for a simple or combined cycle combustion turbine, regardless of whether the plant includes duct burners.

Sec. 1.5. NRS 387.205 is hereby amended to read as follows:

387.205 1. Subject to the limitations set forth in NRS 387.206 and 387.207, money on deposit in the county school district fund or in a separate account, if the board of trustees of a school district has elected to establish such an account pursuant to the provisions of NRS 354.603, must be used for:

(a) Maintenance and operation of the public schools controlled by the county school district.

(b) Payment of premiums for Nevada industrial insurance.

(c) Rent of schoolhouses.

(d) Construction, furnishing or rental of teacherages, when approved by the Superintendent of Public Instruction.

(e) Transportation of pupils, including the purchase of new buses.

(f) Programs of nutrition, if such expenditures do not curtail the established school program or make it necessary to shorten the school term,

and each pupil furnished lunch whose parent or guardian is financially able so to do pays at least the actual cost of the lunch.

(g) Membership fees, dues and contributions to an interscholastic activities association.

(h) Repayment of a loan made from the State Permanent School Fund pursuant to NRS 387.526.

(i) Programs of education and projects relating to air quality pursuant to NRS 445B.500.

2. Subject to the limitations set forth in NRS 387.206 and 387.207, money on deposit in the county school district fund, or in a separate account, if the board of trustees of a school district has elected to establish such an account pursuant to the provisions of NRS 354.603, when available, may be used for:

(a) Purchase of sites for school facilities.

(b) Purchase of buildings for school use.

(c) Repair and construction of buildings for school use.

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

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 112.

Bill read second time.

The following amendment was proposed by the Committee on Human Resources and Education:

Amendment No. 120.

"SUMMARY—Enacts provisions governing the sale of products containing materials that are used in the manufacture of methamphetamine and other controlled substances. (BDR 40-27)"

"AN ACT relating to controlled substances; requiring entities that sell certain products that are precursors to methamphetamine to place such products in an area to which the public does not have direct access, to limit the quantity of such products sold or transferred to the same person during any ~~{24-hour period}~~ calendar day, to maintain a list of sales of such products and to ensure that certain information is entered in that list; prohibiting a person from acquiring more than a certain amount of certain products that are precursors to methamphetamine; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

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

Section 6 of this bill requires sellers of a product that contains certain materials that can be used to manufacture methamphetamine to keep the product in a locked case or cabinet or behind a store counter so that the

public does not have direct access to the product. Section 7 of this bill establishes limits on the quantity of certain chemicals that can be sold to the same person during a ~~[24-hour period.]~~ calendar day. Section 8 of this bill requires sellers of a product that contains materials that can be used to manufacture methamphetamine to maintain a logbook of sales and transfers of the product and to ensure that certain information is entered in the logbook.

If a seller of a product that contains materials that can be used to manufacture methamphetamine violates section 6, 7 or 8 of this bill, section 9 of this bill provides that the seller is subject to a civil penalty of not more than \$25,000 for each violation. ~~[Moreover, if certain sellers knowingly or intentionally violate section 6, 7 or 8, then those sellers are subject to both civil penalties and criminal penalties.]~~

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

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

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

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

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

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

Sec. 4. *"Product that is a precursor to methamphetamine" means a product that contains ephedrine, pseudoephedrine or phenylpropanolamine or the salts, optical isomers or salts of optical isomers of such chemicals and may be marketed or distributed lawfully in the United States under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301 et seq., as a nonprescription drug.*

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

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

Sec. 7. 1. Except as otherwise provided in subsection 2, a retail distributor shall not sell or transfer to the same person during any ~~[24 hour period]~~ calendar day more than 3.6 grams of ephedrine ~~or~~ base, pseudoephedrine base or phenylpropanolamine base or the salts, optical isomers or salts of optical isomers of such chemicals in a product that is a precursor to methamphetamine.

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

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

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

- (a) The name of the product sold or transferred;
- (b) The quantity of the product sold or transferred;
- (c) The name and address of the purchaser or transferee; and
- (d) The date and time of the sale or transfer.

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

- (a) The prospective purchaser or transferee:

(1) Presents an identification card that provides a photograph and is issued by the Government of the United States or the government of this State or any other state, or a document that, with respect to identification, is considered acceptable pursuant to 21 U.S.C. § 830(e)(1); and

- (2) Signs his name in the logbook; and

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

4. The logbook must include ~~for the notice to a prospective purchaser or transferee that entering a false statement or representation in the logbook may subject the prospective purchaser or transferee to criminal penalties pursuant to section 11 of this act and 18 U.S.C. § 1001, which is required by 21 C.F.R. § 1314.30(f).~~

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

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

7. Upon the request of a law enforcement agency of this State or a political subdivision thereof or a law enforcement agency of the Federal

Government, a retail distributor shall disclose the information in the logbook to the law enforcement agency.

Sec. 9. ~~{1. Unless a greater penalty is provided in subsection 2, 3 or 4, if a retail distributor violates any provision of section 6, 7 or 8 of this act, the retail distributor is subject ~~only~~ to a civil penalty pursuant to the provisions of NRS 453.553 to 453.5533, inclusive.~~

~~2. Unless a greater penalty is provided in subsection 3 or 4, if a retail distributor knowingly violates any provision of section 6, 7 or 8 of this act, the retail distributor:~~

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

~~(b) Is guilty of a misdemeanor.~~

~~3. Unless a greater penalty is provided in subsection 4, if a retail distributor knowingly violates any provision of section 6, 7 or 8 of this act after a prior conviction under this chapter or the law of the United States or of any state, territory or district relating to a controlled substance has become final, the retail distributor:~~

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

~~(b) Is guilty of a gross misdemeanor.~~

~~4. If a retail distributor knowingly violates any provision of section 6, 7 or 8 of this act after two or more prior convictions under this chapter or the law of the United States or of any state, territory or district relating to a controlled substance, or a combination of two or more such prior convictions, have become final, the retail distributor:~~

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

~~(b) Is guilty of a category D felony and shall be punished as provided in NRS 103.130.~~

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

(a) During any ~~{24-hour period}~~ calendar day, more than 3.6 grams of ephedrine ~~or base~~, pseudoephedrine base or phenylpropanolamine base or the salts, optical isomers or salts of optical isomers of such chemicals in a product that is a precursor to methamphetamine; or

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

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

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

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

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

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

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

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

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

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

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

(c) "Substitute" means a substance which:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. *The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving any act or transaction in violation of the provisions of section 6, 7 or 8 of this act, to a civil penalty in an amount not to exceed \$25,000 for each violation.*

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

453.5533 1. A civil action brought pursuant to NRS 453.553 must be brought within 3 years after the conduct in violation of the provisions of NRS 453.011 to 453.552, inclusive, *and sections 2 to 11, inclusive, of this act* occurs.

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

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

The following amendment was proposed by Senator Washington:

Amendment No. 573.

"SUMMARY—Enacts provisions governing the sale of products containing materials that are used in the manufacture of methamphetamine and other controlled substances. (BDR 40-27)"

"AN ACT relating to controlled substances; requiring entities that sell certain products that are precursors to methamphetamine to place such products in an area to which the public does not have direct access, to limit the quantity of such products sold or transferred to the same person during any 24-hour period, to maintain a list of sales of such products and to ensure that certain information is entered in that list; prohibiting a person from acquiring more than a certain amount of certain products that are precursors to methamphetamine; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

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

Section 6 of this bill requires sellers of a product that contains certain materials that can be used to manufacture methamphetamine to keep the product in a locked case or cabinet or behind a store counter so that the public does not have direct access to the product. Section 7 of this bill establishes limits on the quantity of certain chemicals that can be sold to the same person during a 24-hour period. Section 8 of this bill requires sellers of a product that contains materials that can be used to manufacture methamphetamine to maintain a logbook of sales and transfers of the product and to ensure that certain information is entered in the logbook.

If a seller of a product that contains materials that can be used to manufacture methamphetamine violates section 6, 7 or 8 of this bill, section 9 of this bill provides that the seller is subject to a civil penalty of not more than ~~[\$25,000]~~ \$250,000 for each violation. Moreover, if certain sellers knowingly or intentionally violate section 6, 7 or 8, then those sellers are subject to both civil penalties and criminal penalties.

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

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

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

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

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

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

Sec. 4. *"Product that is a precursor to methamphetamine" means a product that contains ephedrine, pseudoephedrine or phenylpropanolamine or the salts, optical isomers or salts of optical isomers of such chemicals and may be marketed or distributed lawfully in the United States under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301 et seq., as a nonprescription drug.*

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

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

Sec. 7. 1. *Except as otherwise provided in subsection 2, a retail distributor shall not sell or transfer to the same person during any 24-hour period more than 3.6 grams of ephedrine, pseudoephedrine or phenylpropanolamine or the salts, optical isomers or salts of optical isomers of such chemicals in a product that is a precursor to methamphetamine.*

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

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

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

- (a) The name of the product sold or transferred;*
- (b) The quantity of the product sold or transferred;*
- (c) The name and address of the purchaser or transferee; and*
- (d) The date and time of the sale or transfer.*

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

- (a) The prospective purchaser or transferee:*

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

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

(2) Signs his name in the logbook; and

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

4. The logbook must include a notice to a prospective purchaser or transferee that entering a false statement or representation in the logbook may subject the prospective purchaser or transferee to criminal penalties pursuant to section 11 of this act and 18 U.S.C. § 1001.

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

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

7. Upon the request of a law enforcement agency of this State or a political subdivision thereof or a law enforcement agency of the Federal Government, a retail distributor shall disclose the information in the logbook to the law enforcement agency.

Sec. 9. 1. Unless a greater penalty is provided in subsection 2, 3 or 4, if a retail distributor violates any provision of section 6, 7 or 8 of this act, the retail distributor is subject only to a civil penalty pursuant to the provisions of NRS 453.553 to 453.5533, inclusive.

2. Unless a greater penalty is provided in subsection 3 or 4, if a retail distributor knowingly violates any provision of section 6, 7 or 8 of this act, the retail distributor:

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

(b) Is guilty of a misdemeanor.

3. Unless a greater penalty is provided in subsection 4, if a retail distributor knowingly violates any provision of section 6, 7 or 8 of this act after a prior conviction under this chapter or the law of the United States or of any state, territory or district relating to a controlled substance has become final, the retail distributor:

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

(b) Is guilty of a gross misdemeanor.

4. If a retail distributor knowingly violates any provision of section 6, 7 or 8 of this act after two or more prior convictions under this chapter or the law of the United States or of any state, territory or district relating to a controlled substance, or a combination of two or more such prior convictions, have become final, the retail distributor:

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

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

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

(a) During any 24-hour period, more than 3.6 grams of ephedrine, pseudoephedrine or phenylpropanolamine or the salts, optical isomers or salts of optical isomers of such chemicals in a product that is a precursor to methamphetamine; or

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

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

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

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

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

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

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

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

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

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

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

(c) "Substitute" means a substance which:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. *The State of Nevada is entitled, in a civil action brought pursuant to NRS 453.553 involving any act or transaction in violation of the provisions*

of section 6, 7 or 8 of this act, to a civil penalty in an amount not to exceed ~~[\$25,000]~~ \$250,000 for each violation.

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

453.5533 1. A civil action brought pursuant to NRS 453.553 must be brought within 3 years after the conduct in violation of the provisions of NRS 453.011 to 453.552, inclusive, *and sections 2 to 11, inclusive, of this act* occurs.

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

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 123.

Bill read second time.

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

Amendment No. 415.

"SUMMARY—Makes various changes to provisions relating to public records. (BDR 19-462)"

"AN ACT relating to public records; providing that certain records of a nongovernmental entity are public books or records under certain circumstances; requiring a governmental entity to take certain action ~~[within a certain period]~~ in response to a written request to inspect or copy a public book or record; making various changes regarding the confidentiality of records; ~~[providing in skeleton form a mechanism pursuant to which]~~ authorizing a person ~~[may]~~ to apply to a district court for an order to allow the person to inspect or copy ~~[a]~~ certain confidential public ~~[book]~~ books or ~~[record]~~ records that ~~[has]~~ have been in the custody of a governmental entity for ~~[at least 10 years;]~~ a certain period; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, all public books and records of a governmental entity, the contents of which are not otherwise declared by law to be confidential ~~[or which the governmental entity determines pursuant to a balancing test must not be disclosed]~~, must be open at all times during office hours for inspection and copying. (NRS 239.010 ~~[D]~~; Donrey v. Bradshaw, 106 Nev. 630 (1990))

Section 4 of this bill provides that if a governmental entity receives a written request to inspect or copy a public book or record, the governmental

entity must, within ~~[2]~~ 5 business days after the date on which the *person who has legal custody or control of the book or record has received the request* ~~[was received]~~ ; (1) allow the requester to inspect or copy the public book or record ~~[, or provide to the requester written notice to explain why the public book or record may not presently be inspected or copied. If a governmental entity is unable to release a public book or record to a requester because it has been declared by law to be confidential and the governmental entity fails within 2 business days to provide notice of that fact to the requester, the governmental entity shall be deemed to have waived its right to claim that the book or record is confidential, and must allow the requester to inspect or copy that public book or record. If a person is proximately harmed by such a deemed waiver of confidentiality, the person may bring an action for damages against the governmental entity.~~

~~Section~~ ; (2) *if the governmental entity does not have legal custody or control of the public book or record, notify the requester of that fact and where, if known, the public book or record is located;* (3) *if the governmental entity cannot make the public book or record available within 5 business days, notify the requester of the date and time when the book or record will be available;* or (4) *if the public book or record is confidential, notify the requester of that fact in writing, including a citation to the legal authority that makes the book or record confidential.*

*With the exception of public books or records pertaining to applicants for gaming licenses, section 6 of this bill provides that, notwithstanding any provision of law that has declared a public book or record, or a part thereof, to be confidential, once ~~[the]~~ a public book or record has been in the legal custody or control of one or more governmental entities for a period of at least ~~[10]~~ 30 years, a person may apply to the appropriate district court for an order allowing him to inspect or copy the public book or record. *If the public book or record pertains to a natural person, a person may not apply for such a court order until 30 years after the book or record has been in the legal custody or control of a governmental entity or the death of the person to whom the book or record pertains, whichever is later.* Section ~~[10]~~ 218 of this bill ~~[provides]~~ *clarifies* that a person may ~~[not]~~ apply for such an order ~~[until October 1, 2017, thus beginning the 10 year waiting period]~~ on *or after* October 1, 2007, the effective date of the bill ~~[,], to inspect or copy public books or records that already meet the conditions set forth in section 6.~~*

Section 5 of this bill provides that in any judicial or administrative proceeding in which the confidentiality of a public book or record is at issue and the governmental entity that has legal custody or control of the public book or record asserts that the public book or record is confidential, the governmental entity has the burden of proving such confidentiality.

Sections 3 and 7 of this bill provide that although a nongovernmental entity which performs certain functions for or on behalf of a governmental entity is considered a governmental entity for the purposes of Nevada's public records law (chapter 239 of NRS), the records of a nongovernmental

entity ~~are public records that must be open for inspection and copying only if such records: (1) are created, obtained, maintained or preserved in the course of administering, managing or regulating;~~ that are directly related to the administration, management or regulation of an activity, program, institution or facility for or on behalf of a governmental entity ~~and (2) would otherwise be considered public records within the meaning of NRS 239.010;~~ are public records that must be open for inspection and copying. Section 3 specifically excludes financial or other proprietary records of a nongovernmental entity from this requirement.

Section 8 of this bill provides that a governmental entity shall not deny a request to inspect or copy a public book or record because the public book or record contains information that ~~has been declared by law to be~~ is confidential if the governmental entity can redact the confidential information.

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

Section 1. Chapter 239 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *The Legislature hereby finds and declares that:*

1. *The purpose of this chapter is to foster democratic principles by providing members of the public with access to inspect and copy public books and records to the extent permitted by law;*

2. *The provisions of this chapter must be construed liberally to carry out this important purpose; and*

3. *Any exemption, exception or balancing of interests which limits or restricts access to public books and records by members of the public must be construed narrowly.*

Sec. 3. ~~Records~~

1. *Except as otherwise provided in subsection 2, records of a nongovernmental entity* ~~are public records that must be open for inspection and copying only if such records:~~

~~1. Are created, obtained, maintained or preserved by the nongovernmental entity in the course of administering, managing or regulating;~~ that are directly related to the administration, management or regulation of an activity, program, institution or facility by the nongovernmental entity for or on behalf of a governmental entity ~~and~~

~~2. Would otherwise be considered public records within the meaning of NRS 239.010 if the records were created, obtained, maintained or preserved by a governmental entity that is described in paragraphs (a) to (d), inclusive, of subsection 4 of NRS 239.005;~~ are public records that must be open for inspection and copying.

2. This section does not apply to the financial or other proprietary records of the nongovernmental entity.

Sec. 4. 1. *Not later than the end of the* ~~second~~ fifth *business day after the date on which* ~~the~~ the person who has legal custody or control of a public

book or record of a governmental entity receives a written request from a person to inspect or copy ~~for~~ the public book or record, a governmental entity shall do one of the following, as applicable:

(a) Allow the person to inspect or copy the public book or record.
 (b) If the governmental entity does not have legal custody or control of the public book or record, provide to the person, in writing:

(1) Notice of that fact; and
 (2) The name and address of the governmental entity that has legal custody or control of the public book or record, if known.

(c) ~~If extraordinary circumstances exist which make it impossible for~~ Except as otherwise provided in paragraph (d), if the governmental entity is unable to ~~allow the person to inspect or copy~~ make the public book or record available by the end of the ~~second~~ fifth business day after the date on which the ~~person made his~~ person who has legal custody or control of the public book or record received the request, provide to the person, in writing:

(1) Notice of that fact; and
 (2) A date and time after which the public book or record will be available for the person to inspect or copy. ~~Such date and time must be not later than the end of the 10th business day after the date on which the notice described in this paragraph is provided by the governmental entity.~~ If the public book or record is not available to the person to inspect or copy by that date and time, the person may inquire regarding the status of the request.

(d) If the governmental entity must deny the person's request to inspect or copy the public book or record because the public book or record, or a part thereof, ~~has been declared by law to be~~ is confidential, provide to the person, in writing:

(1) Notice of that fact; and
 (2) A citation to the specific statute or other legal authority that ~~declares~~ makes the public book or record, or a part thereof, ~~to be~~ confidential.

2. ~~If a governmental entity must deny a person's request to inspect or copy a public book or record because the public book or record, or a part thereof, has been declared by law to be confidential but the governmental entity fails to comply with the provisions of paragraph (d) of subsection 1, the governmental entity shall be deemed to have waived its right to claim that the public book or record is confidential and must allow the person to inspect or copy the public book or record, or a part thereof, unless the governmental entity or the administrative head of the governmental entity, as applicable, determines that:~~

~~(a) The failure of the governmental entity to comply with the provisions of paragraph (d) of subsection 1 was due to excusable neglect; or~~
~~(b) Allowing the person to inspect or copy the public book or record, or a part thereof, would adversely affect personal privacy rights.~~

~~3. Any decision made pursuant to subsection 2 by a governmental entity or the administrative head of a governmental entity, as applicable, is a final decision for the purposes of judicial review. A person aggrieved by such a final decision is entitled to judicial review of the decision in the manner provided in NRS 233B.130 to 233B.150, inclusive, for the review of decisions of administrative agencies in contested cases.~~

~~4. If, pursuant to subsection 2, a governmental entity is deemed to have waived its right to claim that a public book or record is confidential and a person suffers injury as the proximate result of the release of that public book or record, or a part thereof, the person may bring an action against the governmental entity in a court of competent jurisdiction for the recovery of his actual damages and any punitive damages which the facts may warrant.] The provisions of this section must not be construed to prohibit an oral request to inspect or copy a public book or record.~~

Sec. 5. Except as otherwise provided in section 6 of this act, if:

1. The confidentiality of a public book or record, or a part thereof, is at issue in a judicial or administrative proceeding; and

2. The governmental entity that has legal custody or control of the public book or record asserts that the public book or record, or a part thereof, is confidential,

↳ the governmental entity has the burden of proving by a preponderance of the evidence that the public book or record, or a part thereof, is confidential.

Sec. 6. 1. ~~[Notwithstanding]~~ Except as otherwise provided in this subsection and subsection 3, notwithstanding any provision of law that has declared a public book or record, or a part thereof, to be confidential, if a public book or record has been in the legal custody or control of one or more governmental entities for at least ~~[10]~~ 30 years, a person may apply to the district court of the county in which ~~is located~~ the governmental entity that currently has legal custody or control of the public book or record is located for an order directing that governmental entity to allow the person to inspect or copy the public book or record, or a part thereof. If the public book or record pertains to a natural person, a person may not apply for an order pursuant to this subsection until the public book or record has been in the legal custody or control of one or more governmental entities for at least 30 years or until the death of the person to whom the public book or record pertains, whichever is later.

2. There is a rebuttable presumption that a person who applies for an order as described in subsection 1 is entitled to inspect or copy the public book or record, or a part thereof, that he seeks to inspect or copy.

3. The provisions of subsection 1 do not apply to any public book or record pertaining to an applicant that has been declared confidential pursuant to subsection 4 of NRS 463.120. As used in this subsection, "applicant" has the meaning ascribed to it in NRS 463.0135.

Sec. 7. NRS 239.005 is hereby amended to read as follows:

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

1. "Actual cost" means the direct cost related to the reproduction of a public record. The term does not include a cost that a governmental entity incurs regardless of whether or not a person requests a copy of a particular public record.

2. "Committee" means the Committee to Approve Schedules for the Retention and Disposition of Official State Records.

3. "Division" means the Division of State Library and Archives of the Department of Cultural Affairs.

4. "Governmental entity" means:

(a) An elected or appointed officer of this State or of a political subdivision of this State;

(b) An institution, board, commission, bureau, council, department, division, authority or other unit of government of this State or of a political subdivision of this State;

(c) A university foundation, as defined in NRS 396.405; [or]

(d) An educational foundation, as defined in NRS 388.750, to the extent that the foundation is dedicated to the assistance of public schools ~~[-]~~; or

(e) *Any other person or nongovernmental entity that administers, manages or regulates an activity, program, institution or facility for or on behalf of a governmental entity described in paragraphs (a) to (d), inclusive, of this subsection.*

Sec. 8. NRS 239.010 is hereby amended to read as follows:

239.010 1. ~~[A]~~ Except as otherwise provided in subsection 2, all public books and public records of a governmental entity, the contents of which are not otherwise declared by law to be confidential, must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy a public book or record on the basis that the requested public book or record contains information that ~~has otherwise been declared by law to be~~ is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that ~~has~~ is not otherwise ~~been declared by law to be~~ confidential.

3. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

~~[3-]~~ 4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record shall not refuse to provide a copy of that public record in a readily available medium because he has already prepared or would prefer to provide the copy in a different medium.

Sec. 9. NRS 239.0105 is hereby amended to read as follows:

239.0105 1. Records of a local governmental entity are confidential and not public books or records within the meaning of NRS 239.010 if:

(a) The records contain the name, address, telephone number or other identifying information of a natural person; and

(b) The natural person whose name, address, telephone number or other identifying information is contained in the records provided such information to the local governmental entity for the purpose of:

(1) Registering with or applying to the local governmental entity for the use of any recreational facility or portion thereof that the local governmental entity offers for use through the acceptance of reservations; or

(2) On his own behalf or on behalf of a minor child, registering or enrolling with or applying to the local governmental entity for participation in an instructional or recreational activity or event conducted, operated or sponsored by the local governmental entity.

2. The records described in subsection 1 must be disclosed by a local governmental entity only pursuant to:

(a) A subpoena or court order, lawfully issued, requiring the disclosure of such records;

(b) An affidavit of an attorney setting forth that the disclosure of such records is relevant to an investigation in anticipation of litigation; ~~for~~

(c) A request by a reporter or editorial employee for the disclosure of such records, if the reporter or editorial employee is employed by or affiliated with a newspaper, press association or commercially operated, federally licensed radio or television station ~~for~~; or

(d) The provisions of section 6 of this act.

3. Except as otherwise provided by specific statute or federal law, a natural person shall not provide, and a local governmental entity shall not require, the social security number of any natural person for the purposes described in subparagraphs (1) and (2) of paragraph (b) of subsection 1.

4. As used in this section, unless the context otherwise requires, "local governmental entity" has the meaning ascribed to it in NRS 239.121.

~~[Sec. 9.] Sec. 10. [NRS 239.012 is hereby amended to read as follows:~~

~~239.012 [A] Except as otherwise provided in subsection 4 of section 4 of this act, a public officer or employee who acts in good faith in disclosing or refusing to disclose information, and his employer, are immune from liability for damages, either to the requester or to the person whom the information concerns.] (Deleted by amendment.)~~

Sec. 11. NRS 239C.140 is hereby amended to read as follows:

239C.140 1. Except as otherwise provided in subsections 2 and 3, the Commission shall comply with the provisions of chapter 241 of NRS and all meetings of the Commission must be conducted in accordance with that chapter.

2. The Commission may hold a closed meeting to:

(a) Receive security briefings;
(b) Discuss procedures for responding to acts of terrorism and related emergencies; or

(c) Discuss deficiencies in security with respect to public services, public facilities and infrastructure,

↪ if the Commission determines, upon a majority vote of its members, that the public disclosure of such matters would be likely to compromise, jeopardize or otherwise threaten the safety of the public.

3. ~~[All]~~ Except as otherwise provided in section 6 of this act, all information and materials received or prepared by the Commission during a meeting closed pursuant to subsection 2 and all minutes and audiovisual or electronic reproductions of such a meeting are confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

Sec. 12. NRS 239C.250 is hereby amended to read as follows:

239C.250 1. Each political subdivision shall adopt and maintain a response plan. Each new or revised plan must be filed within 10 days after adoption or revision with:

(a) The Division; and
(b) Each response agency that provides services to the political subdivision.

2. The response plan required by subsection 1 must include:

(a) A drawing or map of the layout and boundaries of the political subdivision;

(b) A drawing or description of the streets and highways within, and leading into and out of, the political subdivision, including any approved routes for evacuation;

(c) The location and inventory of emergency response equipment and resources within the political subdivision;

(d) The location of any unusually hazardous substances within the political subdivision;

(e) A telephone number that may be used by residents of the political subdivision to receive information and to make reports with respect to an act of terrorism or related emergency;

(f) The location of one or more emergency response command posts that are located within the political subdivision;

(g) A depiction of the location of each police station, sheriff's office and fire station that is located within the political subdivision;

(h) Plans for the continuity of the operations and services of the political subdivision, which plans must be consistent with the provisions of NRS 239C.260; and

(i) Any other information that the Commission may determine to be relevant.

3. ~~[A]~~ Except as otherwise provided in section 6 of this act, a plan filed pursuant to the requirements of this section, including any revisions adopted thereto, is confidential and must be securely maintained by the entities with whom it is filed pursuant to subsection 1. An officer, employee or other person to whom the plan is entrusted by the entity with whom it is filed shall not disclose the contents of such a plan except:

- (a) Upon the lawful order of a court of competent jurisdiction; ~~[or]~~
- (b) As is reasonably necessary in the case of an act of terrorism or related emergency ~~[]~~; or

(c) Pursuant to the provisions of section 6 of this act.

Sec. 13. NRS 239C.270 is hereby amended to read as follows:

239C.270 1. Each utility shall:

- (a) Conduct a vulnerability assessment in accordance with the requirements of the federal and regional agencies that regulate the utility; and
- (b) Prepare and maintain an emergency response plan in accordance with the requirements of the federal and regional agencies that regulate the utility.

2. Each utility shall:

- (a) As soon as practicable but not later than December 31, 2003, submit its vulnerability assessment and emergency response plan to the Division; and
- (b) At least once each year thereafter, review its vulnerability assessment and emergency response plan and, as soon as practicable after its review is completed but not later than December 31 of each year, submit the results of its review and any additions or modifications to its emergency response plan to the Division.

3. ~~[Each]~~ Except as otherwise provided in section 6 of this act, each vulnerability assessment and emergency response plan of a utility and any other information concerning a utility that is necessary to carry out the provisions of this section is confidential and must be securely maintained by each person or entity that has possession, custody or control of the information.

4. A person shall not disclose such information, except:

- (a) Upon the lawful order of a court of competent jurisdiction;
- (b) As is reasonably necessary to carry out the provisions of this section or the operations of the utility, as determined by the Division; ~~[or]~~
- (c) As is reasonably necessary in the case of an emergency involving public health or safety, as determined by the Division ~~[]~~; or

(d) Pursuant to the provisions of section 6 of this act.

5. If a person knowingly and unlawfully discloses such information or assists, solicits or conspires with another person to disclose such information, the person is guilty of:

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

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

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

Sec. 14. NRS 240.007 is hereby amended to read as follows:

240.007 1. Except as otherwise provided in subsection 2, information and documents filed with or obtained by the Secretary of State pursuant to NRS 240.001 to 240.169, inclusive, are public information and are available for public examination.

2. Except as otherwise provided in subsections 3 and 4, ~~and~~ and in section 6 of this act, information and documents obtained by or filed with the Secretary of State in connection with an investigation concerning a possible violation of the provisions of NRS 240.001 to 240.169, inclusive, are not public information and are confidential.

3. The Secretary of State may submit any information or evidence obtained in connection with an investigation concerning a possible violation of the provisions of NRS 240.001 to 240.169, inclusive, to the appropriate district attorney for the purpose of prosecuting a criminal action.

4. The Secretary of State may disclose any information or documents obtained in connection with an investigation concerning a possible violation of the provisions of NRS 240.001 to 240.169, inclusive, to an agency of this State or a political subdivision of this State.

Sec. 15. NRS 1.4683 is hereby amended to read as follows:

1.4683 1. Except as otherwise provided in this section and NRS 1.4693 ~~and~~ and section 6 of this act, all proceedings of the Commission must remain confidential until the Commission makes a determination pursuant to NRS 1.467 and the prosecuting attorney files a formal statement of charges.

2. The confidentiality required pursuant to subsection 1 also applies to all information and materials, written or oral, received or developed by the Commission or its staff in the course of its work and relating to the alleged misconduct or incapacity of a judge.

3. The Commission shall disclose:

(a) The report of a proceeding before the Commission; and

(b) All testimony given and all materials filed in connection with such a proceeding,

↪ if a witness is prosecuted for perjury committed during the course of that proceeding.

4. If the Commission determines at any stage in a disciplinary proceeding that there is an insufficient factual or legal basis to proceed, the Commission shall dismiss the complaint and may, at the request of the justice or judge named in the complaint, publicly issue an explanatory statement.

5. The Commission may issue press releases and other public statements to:

(a) Explain the nature of its jurisdiction;

(b) Explain the procedure for filing a complaint;

- (c) Explain limitations upon its powers and authority; and
- (d) Report on the conduct of its affairs.

↪ Such releases and statements must not, without the consent of the justice or judge concerned, disclose by name, position, address or other information the identity of a justice or judge or other person involved in a proceeding then pending before the Commission or that has been resolved without an order of censure, removal or retirement, unless formal charges have been filed after a determination pursuant to NRS 1.467.

6. The Commission may, without disclosing the name of or any details that may identify the justice or judge involved, disclose the existence of a proceeding before it to the State Board of Examiners and the Interim Finance Committee to obtain additional money for its operation from the Contingency Fund established pursuant to NRS 353.266.

7. No record of any medical examination, psychiatric evaluation or other comparable professional record made for use in an informal resolution pursuant to subsection 1 of NRS 1.4665 may be made public at any time without the consent of the justice or judge concerned.

Sec. 16. NRS 62D.440 is hereby amended to read as follows:

62D.440 1. The prosecuting attorney shall disclose to the victim of an act committed by a child the disposition of the child's case regarding that act if:

- (a) The victim requests such a disclosure; or
- (b) If the victim is less than 18 years of age, the parent or guardian of the victim requests such a disclosure.

2. ~~[All]~~ *Except as otherwise provided in section 6 of this act, all* personal information pertaining to the victim or the parent or guardian of the victim, including, but not limited to, a current or former address, which is obtained by the prosecuting attorney pursuant to this section, is confidential and must not be used for a purpose other than that provided for in this section.

Sec. 17. NRS 62E.620 is hereby amended to read as follows:

62E.620 1. The juvenile court shall order a delinquent child to undergo an evaluation to determine whether the child is an abuser of alcohol or other drugs if the child committed:

- (a) An unlawful act in violation of NRS 484.379, 484.3795 or 484.37955;
- (b) The unlawful act of using, possessing, selling or distributing a controlled substance; or
- (c) The unlawful act of purchasing, consuming or possessing an alcoholic beverage in violation of NRS 202.020.

2. Except as otherwise provided in subsection 3, an evaluation of the child must be conducted by:

- (a) An alcohol and drug abuse counselor who is licensed or certified or an alcohol and drug abuse counselor intern who is certified pursuant to chapter 641C of NRS to make that classification; or
- (b) A physician who is certified to make that classification by the Board of Medical Examiners.

3. If the child resides in this State but the nearest location at which an evaluation may be conducted is in another state, the court may allow the evaluation to be conducted in the other state if the person conducting the evaluation:

(a) Possesses qualifications that are substantially similar to the qualifications described in subsection 2;

(b) Holds an appropriate license, certificate or credential issued by a regulatory agency in the other state; and

(c) Is in good standing with the regulatory agency in the other state.

4. The evaluation of the child may be conducted at an evaluation center.

5. The person who conducts the evaluation of the child shall report to the juvenile court the results of the evaluation and make a recommendation to the juvenile court concerning the length and type of treatment required for the child.

6. The juvenile court shall:

(a) Order the child to undergo a program of treatment as recommended by the person who conducts the evaluation of the child.

(b) Require the treatment facility to submit monthly reports on the treatment of the child pursuant to this section.

(c) Order the child or the parent or guardian of the child, or both, to the extent of their financial ability, to pay any charges relating to the evaluation and treatment of the child pursuant to this section. If the child or the parent or guardian of the child, or both, do not have the financial resources to pay all those charges:

(1) The juvenile court shall, to the extent possible, arrange for the child to receive treatment from a treatment facility which receives a sufficient amount of federal or state money to offset the remainder of the costs; and

(2) The juvenile court may order the child, in lieu of paying the charges relating to his evaluation and treatment, to perform community service.

7. After a treatment facility has certified a child's successful completion of a program of treatment ordered pursuant to this section, the treatment facility is not liable for any damages to person or property caused by a child who:

(a) Drives, operates or is in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance; or

(b) Engages in any other conduct prohibited by NRS 484.379, 484.3795, 484.37955, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425 or a law of any other jurisdiction that prohibits the same or similar conduct.

8. The provisions of this section do not prohibit the juvenile court from:

(a) Requiring an evaluation to be conducted by a person who is employed by a private company if the company meets the standards of the Health Division of the Department of Health and Human Services. The evaluation may be conducted at an evaluation center.

(b) Ordering the child to attend a program of treatment which is administered by a private company.

9. ~~[All]~~ Except as otherwise provided in section 6 of this act, all information relating to the evaluation or treatment of a child pursuant to this section is confidential and, except as otherwise authorized by the provisions of this title or the juvenile court, must not be disclosed to any person other than:

- (a) The juvenile court;
- (b) The child;
- (c) The attorney for the child, if any;
- (d) The parents or guardian of the child;
- (e) The district attorney; and
- (f) Any other person for whom the communication of that information is necessary to effectuate the evaluation or treatment of the child.

10. A record of any finding that a child has violated the provisions of NRS 484.379, 484.3795 or 484.37955 must be included in the driver's record of that child for 7 years after the date of the offense.

Sec. 18. NRS 62H.220 is hereby amended to read as follows:

62H.220 1. For each child adjudicated delinquent for an unlawful act that would have been a sexual offense if committed by an adult, the Division of Child and Family Services shall collect from the juvenile courts, local juvenile probation departments and the staff of the youth correctional services, as directed by the Department of Health and Human Services:

- (a) The information listed in NRS 62H.210;
- (b) The name of the child; and
- (c) All information concerning programs of treatment in which the child participated that:

(1) Were directly related to the delinquent act committed by the child;
or

(2) Were designed or utilized to prevent the commission of another such act by the child in the future.

2. The Division of Child and Family Services shall provide the information collected pursuant to subsection 1 to the Central Repository for use in the program established pursuant to NRS 179A.270, 179A.280 and 179A.290.

3. ~~[All]~~ Except as otherwise provided in section 6 of this act, all information containing the name of the child and all information relating to programs of treatment in which the child participated is confidential and must not be used for a purpose other than that provided for in this section and NRS 179A.290.

4. As used in this section, "sexual offense" means:

- (a) Sexual assault pursuant to NRS 200.366;
- (b) Statutory sexual seduction pursuant to NRS 200.368;
- (c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

- (d) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;
- (e) Incest pursuant to NRS 201.180;
- (f) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195;
- (g) Open or gross lewdness pursuant to NRS 201.210;
- (h) Indecent or obscene exposure pursuant to NRS 201.220;
- (i) Lewdness with a child pursuant to NRS 201.230;
- (j) Sexual penetration of a dead human body pursuant to NRS 201.450;
- (k) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony;
- (l) Annoyance or molestation of a minor pursuant to NRS 207.260;
- (m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive;
- (n) An offense that is determined to be sexually motivated pursuant to NRS 175.547; or
- (o) An offense committed in another jurisdiction that, if committed in this State, would have been an offense listed in this subsection.

Sec. 19. NRS 90.730 is hereby amended to read as follows:

90.730 1. Except as otherwise provided in subsection 2, information and records filed with or obtained by the Administrator are public information and are available for public examination.

2. Except as otherwise provided in subsections 3 and 4 ~~and~~ and section 6 of this act, the following information and records do not constitute public information under subsection 1 and are confidential:

(a) Information or records obtained by the Administrator in connection with an investigation concerning possible violations of this chapter; and

(b) Information or records filed with the Administrator in connection with a registration statement filed under this chapter or a report under NRS 90.390 which constitute trade secrets or commercial or financial information of a person for which that person is entitled to and has asserted a claim of privilege or confidentiality authorized by law.

3. The Administrator may submit any information or evidence obtained in connection with an investigation to the:

(a) Attorney General or appropriate district attorney for the purpose of prosecuting a criminal action under this chapter; and

(b) Department of Taxation for its use in carrying out the provisions of chapter 363A of NRS.

4. The Administrator may disclose any information obtained in connection with an investigation pursuant to NRS 90.620 to the agencies and administrators specified in subsection 1 of NRS 90.740 but only if disclosure is provided for the purpose of a civil, administrative or criminal investigation or proceeding, and the receiving agency or administrator represents in writing that under applicable law protections exist to preserve the integrity, confidentiality and security of the information.

5. This chapter does not create any privilege or diminish any privilege existing at common law, by statute, regulation or otherwise.

Sec. 20. NRS 91.160 is hereby amended to read as follows:

91.160 1. This chapter must be administered by the Administrator of the Securities Division of the Office of the Secretary of State.

2. It is unlawful for the Administrator or any employee of the Administrator to use for personal benefit any information which is filed with or obtained by the Administrator and which is not made public. It is unlawful for the Administrator or any employee of the Administrator to conduct any dealings regarding a security or commodity based upon any such information, even though made public, if there has not been a sufficient period of time for the securities or commodity markets to assimilate such information.

3. Except as otherwise provided in subsection 4, all information and materials collected, assembled or maintained by the Administrator are public records.

4. ~~[The]~~ Except as otherwise provided in section 6 of this act, the following information is confidential:

(a) Information obtained in private investigations pursuant to NRS 91.300; and

(b) Information obtained from federal agencies which may not be disclosed under federal law.

5. The Administrator in his discretion may disclose any information made confidential under subsection 4 to persons identified in subsection 1 of NRS 91.170.

6. No provision of this chapter either creates or derogates any privilege which exists at common law, by statute or otherwise when any record or other evidence is sought under subpoena directed to the Administrator or any employee of the Administrator.

Sec. 21. NRS 116.757 is hereby amended to read as follows:

116.757 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a written affidavit filed with the Division pursuant to NRS 116.760, all documents and other information filed with the written affidavit and all documents and other information compiled as a result of an investigation conducted to determine whether to file a formal complaint with the Commission are confidential.

2. A formal complaint filed with the Commission and all documents and other information considered by the Commission or a hearing panel when determining whether to impose discipline or take other administrative action pursuant to NRS 116.745 to 116.795, inclusive, are public records.

Sec. 22. NRS 116A.270 is hereby amended to read as follows:

116A.270 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, 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.

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. 23. NRS 118B.026 is hereby amended to read as follows:

118B.026 1. The Administrator may, upon receiving a complaint alleging a violation of this chapter or any regulation adopted pursuant thereto, investigate the alleged violation. The Administrator or his representative shall, upon request, furnish identification during an investigation. ~~[Any]~~ Except as otherwise provided in section 6 of this act, any information obtained by the Administrator or his representative in the investigation of a complaint, including the name of the complainant, is confidential and must not be disclosed unless so ordered by the Administrator or a court of competent jurisdiction.

2. If the Administrator finds a violation of the provisions of this chapter or of any regulation adopted pursuant thereto, he may issue a notice of violation to the person who he alleges has violated the provision. The notice of violation must set forth the violation which the Administrator alleges with particularity and specify the corrective action which is to be taken and the time within which the action must be taken.

3. If the person to whom a notice of violation is directed fails to take the corrective action required, the Administrator may:

- (a) Extend the time for corrective action;
- (b) Request the district attorney of the county in which the violation is alleged to have occurred to prepare a complaint and procure the issuance of a summons to the person for the violation; or
- (c) Apply to the district court for the judicial district in which the violation is alleged to have occurred for an injunction and any other relief which the court may grant to compel compliance. In an action brought pursuant to this section, the court may award costs and reasonable attorney's fees to the prevailing party.

↪ The Administrator may, in addition to or in lieu of any action authorized by paragraph (a), (b) or (c), impose a fine pursuant to NRS 118B.251.

4. Any person who violates a provision of this chapter, or a regulation adopted pursuant thereto, shall pay for the cost incurred by the division in enforcing the provision.

Sec. 24. NRS 119.260 is hereby amended to read as follows:

119.260 1. The Administrator may issue orders directing persons to desist and refrain from engaging in activities for which they are not licensed under this chapter or conducting activities in a manner not in compliance with the provisions of this chapter.

2. A person who has violated any of the provisions of this chapter shall not engage in any activity for which a license issued pursuant to this chapter

is required after receiving an order in writing from the Administrator directing him to desist and refrain from so doing.

3. Within 30 days after the receipt of such an order, the person may file a verified petition with the Administrator for a hearing.

4. The Administrator shall hold a hearing within 30 days after the petition has been filed. If the Administrator fails to hold a hearing within 30 days, or does not render a written decision within 45 days after the final hearing, the cease and desist order is rescinded.

5. If the decision of the Administrator after a hearing is against the person ordered to cease and desist, he may appeal that decision by filing, within 30 days after the date on which the decision was issued, a petition in the district court for the county in which he conducted the activity. The burden of proof in the appeal is on the appellant. The court shall consider the decision of the Administrator for which the appeal is taken and is limited solely to a consideration and determination of the question of whether there has been an abuse of discretion on the part of the Administrator in making the decision.

6. In lieu of issuing an order to cease and desist, if the developer is conducting activities in a manner not in compliance with the provisions of this chapter, the Administrator may enter into an agreement with the developer in which the developer agrees to:

- (a) Discontinue the activities that are not in compliance with this chapter;
- (b) Pay all costs incurred by the Division in investigating the developer's activities and conducting any necessary hearing; and
- (c) Return to the purchasers any money or property which he acquired through such activities.

↪ ~~The~~ Except as otherwise provided in section 6 of this act, the terms of such an agreement are confidential unless violated by the developer.

Sec. 25. NRS 119A.280 is hereby amended to read as follows:

119A.280 1. The Administrator may issue an order directing a developer to cease engaging in activities for which the developer has not received a permit under this chapter or conducting activities in a manner not in compliance with the provisions of this chapter or the regulations adopted pursuant thereto.

2. The order to cease must be in writing and must state that, in the opinion of the Administrator, the developer has not been issued a permit for the activity or the terms of the permit do not allow the developer to conduct the activity in that manner. The developer shall not engage in any activity regulated by this chapter after he receives such an order.

3. Within 30 days after receiving such an order, a developer may file a verified petition with the Administrator for a hearing. The Administrator shall hold a hearing within 30 days after the petition has been filed. If the Administrator fails to hold a hearing within 30 days, or does not render a written decision within 45 days after the final hearing, the cease and desist order is rescinded.

4. If the decision of the Administrator after a hearing is against the person ordered to cease and desist, he may appeal that decision by filing, within 30 days after the date on which the decision was issued, a petition in the district court for the county in which he conducted the activity. The burden of proof in the appeal is on the appellant. The court shall consider the decision of the Administrator for which the appeal is taken and is limited solely to a consideration and determination of the question of whether there has been an abuse of discretion on the part of the Administrator in making the decision.

5. In lieu of the issuance of an order to cease such activities, the Administrator may enter into an agreement with the developer in which the developer agrees to:

- (a) Discontinue the activities that are not in compliance with this chapter;
- (b) Pay all costs incurred by the Division in investigating the developer's activities and conducting any necessary hearings; and
- (c) Return to the purchasers any money or property which he acquired through such violations.

↪ ~~{The}~~ Except as otherwise provided in section 6 of this act, the terms of such an agreement are confidential unless violated by the developer.

Sec. 26. NRS 119B.370 is hereby amended to read as follows:

119B.370 1. The Administrator may issue an order directing a developer to cease engaging in activities for which the developer has not received a permit under this chapter or conducting activities in a manner not in compliance with the terms of his permit.

2. The order to cease must be in writing and must state that, in the opinion of the Administrator, the developer has not been issued a permit for the activity or the terms of the permit do not allow the developer to conduct the activity in that manner. The developer shall not engage in any activity regulated by this chapter after he receives such an order.

3. Within 30 days after receiving such an order, a developer may file a verified petition with the Administrator for a hearing. The Administrator shall hold a hearing within 30 days after the petition is filed. If the Administrator fails to hold a hearing within 30 days, or does not render a written decision within 45 days after the final hearing, the order to cease is rescinded.

4. If the decision of the Administrator after a hearing is against the person ordered to cease, he may obtain judicial review from that decision by filing, within 30 days after the date on which the decision was issued, a petition in the district court for the county in which he conducted the activity. The burden of proof is on the petitioner. The court shall consider the decision of the Administrator which is being reviewed and shall consider and determine solely whether there has been an abuse of discretion on the part of the Administrator in making the decision.

5. In lieu of the issuance of an order to cease such activities, the Administrator may enter into an agreement with the developer in which the developer agrees to:

- (a) Discontinue the activities that are not in compliance with this chapter;
- (b) Pay all costs incurred by the administrator in investigating the developer's activities and conducting any necessary hearings; and
- (c) Return to the purchasers any money or property which he acquired through such violations.

→ ~~[The]~~ Except as otherwise provided in section 6 of this act, the terms of such an agreement are confidential unless violated by the developer.

Sec. 27. NRS 126.061 is hereby amended to read as follows:

126.061 1. If, under the supervision of a licensed physician and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if he were the natural father of a child thereby conceived. The husband's consent must be in writing and signed by him and his wife. The physician shall certify their signatures and the date of the insemination, and file the husband's consent with the Health Division of the Department of Health and Human Services, where except as otherwise provided in section 6 of this act, it must be kept confidential and in a sealed file. The physician's failure to do so does not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician or elsewhere, are subject to inspection only upon an order of the court for good cause shown.

2. The donor of semen provided to a licensed physician for use in artificial insemination of a married woman other than the donor's wife is treated in law as if he were not the natural father of a child thereby conceived.

Sec. 28. NRS 127.057 is hereby amended to read as follows:

127.057 1. Any person to whom a consent to adoption executed in this State or executed outside this State for use in this State is delivered shall, within 48 hours after receipt of the executed consent to adoption, furnish a true copy of the consent, together with a report of the permanent address of the person in whose favor the consent was executed to the agency which provides child welfare services.

2. Any person recommending in his professional or occupational capacity, the placement of a child for adoption in this State shall immediately notify the agency which provides child welfare services of the impending adoption.

3. ~~[All]~~ Except as otherwise provided in section 6 of this act, all information received by the agency which provides child welfare services pursuant to the provisions of this section is confidential and must be protected from disclosure in the same manner that information is protected under NRS 432.035.

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

Sec. 29. NRS 127.140 is hereby amended to read as follows:

127.140 1. ~~[All]~~ Except as otherwise provided in section 6 of this act, all hearings held in proceedings under this chapter are confidential and must be held in closed court, without admittance of any person other than the petitioners, their witnesses, the director of an agency, or their authorized representatives, attorneys and persons entitled to notice by this chapter, except by order of the court.

2. The files and records of the court in adoption proceedings are not open to inspection by any person except:

(a) Upon an order of the court expressly so permitting pursuant to a petition setting forth the reasons therefor;

(b) If a natural parent and the child are eligible to receive information from the State Register for Adoptions; or

(c) As provided pursuant to subsections 3, 4 and 5.

3. An adoptive parent who intends to file a petition pursuant to NRS 127.1885 or 127.1895 to enforce, modify or terminate an agreement that provides for postadoptive contact may inspect only the portions of the files and records of the court concerning the agreement for postadoptive contact.

4. A natural parent who intends to file a petition pursuant to NRS 127.1885 to prove the existence of or to enforce an agreement that provides for postadoptive contact or to file an action pursuant to NRS 41.509 may inspect only the portions of the files or records of the court concerning the agreement for postadoptive contact.

5. The portions of the files and records which are made available for inspection by an adoptive parent or natural parent pursuant to subsection 3 or 4 must not include any confidential information, including, without limitation, any information that identifies or would lead to the identification of a natural parent if the identity of the natural parent is not included in the agreement for postadoptive contact.

Sec. 30. NRS 127.2817 is hereby amended to read as follows:

127.2817 1. The Division, in consultation with each agency which provides child welfare services, shall adopt regulations setting forth the criteria to be used by an agency which provides child welfare services or a child-placing agency for determining whether a prospective adoptive home is suitable or unsuitable for the placement of a child for adoption.

2. Upon the completion of an investigation conducted by an agency which provides child welfare services or a child-placing agency pursuant to NRS 127.120 or 127.2805, the agency which provides child welfare services or child-placing agency shall inform the prospective adoptive parent or parents of the results of the investigation. If, pursuant to the investigation, a determination is made that a prospective adoptive home is unsuitable for placement or detrimental to the interest of the child, the agency which

provides child welfare services or child-placing agency shall provide the prospective adoptive parent or parents with an opportunity to review and respond to the investigation with the agency which provides child welfare services or child-placing agency before the issuance of the results of the investigation. ~~[The]~~ Except as otherwise provided in section 6 of this act, the identity of those persons who are interviewed or submit information concerning the investigation must remain confidential.

Sec. 31. NRS 159.044 is hereby amended to read as follows:

159.044 1. Except as otherwise provided in NRS 127.045, a proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

- (a) The name and address of the petitioner.
- (b) The name, date of birth and current address of the proposed ward.
- (c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in section 6 of this act or as otherwise required to carry out a specific statute, maintained in a confidential manner:
 - (1) A social security number;
 - (2) A taxpayer identification number;
 - (3) A valid driver's license number;
 - (4) A valid identification card number; or
 - (5) A valid passport number.

↪ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 60 days after the appointment of a guardian or as otherwise ordered by the court.

(d) If the proposed ward is a minor, the date on which he will attain the age of majority and:

- (1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and
- (2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.

(e) Whether the proposed ward is a resident or nonresident of this State.

(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595. If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving

compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.

(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise *provided in section 6 of this act or as otherwise* required to carry out a specific statute, maintained in a confidential manner:

- (1) A social security number;
- (2) A taxpayer identification number;
- (3) A valid driver's license number;
- (4) A valid identification card number; or
- (5) A valid passport number.

(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which he was convicted and whether the proposed guardian was placed on probation or parole.

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation may include, without limitation:

- (1) A certificate signed by a physician who is licensed to practice medicine in this State stating the need for a guardian;
- (2) A letter signed by any governmental agency in this State which conducts investigations stating the need for a guardian; or
- (3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating the need for a guardian.

(k) Whether the appointment of a general or a special guardian is sought.

(l) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Department of Veterans Affairs, the petition must so state.

(m) The name and address of any person or care provider having the care, custody or control of the proposed ward.

(n) The relationship, if any, of the petitioner to the proposed ward and the interest, if any, of the petitioner in the appointment.

(o) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

(p) Whether the guardianship is sought as the result of an investigation of a report of abuse or neglect that is conducted pursuant to chapter 432B of NRS by an agency which provides child welfare services. As used in this paragraph, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(q) Whether the proposed ward is a party to any pending criminal or civil litigation.

(r) Whether the guardianship is sought for the purpose of initiating litigation.

(s) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

Sec. 32. NRS 176.156 is hereby amended to read as follows:

176.156 1. The Division shall disclose to the prosecuting attorney, the counsel for the defendant and the defendant the factual content of the report of:

(a) Any presentence investigation made pursuant to NRS 176.135 and the recommendations of the Division.

(b) Any general investigation made pursuant to NRS 176.151.

↪ The Division shall afford an opportunity to each party to object to factual errors in any such report and to comment on any recommendations.

2. Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation or general investigation to a law enforcement agency of this State or a political subdivision thereof and to a law enforcement agency of the Federal Government for the limited purpose of performing their duties, including, without limitation, conducting hearings that are public in nature.

3. Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation or general investigation to the Division of Mental Health and Developmental Services of the Department of Health and Human Services for the limited purpose of performing its duties, including, without limitation, evaluating and providing any report or information to the Division concerning the mental health of:

(a) A sex offender as defined in NRS 213.107; or

(b) An offender who has been determined to be mentally ill.

4. Unless otherwise ordered by a court, upon request, the Division shall disclose the content of a report of a presentence investigation or general investigation to the State Gaming Control Board for the limited purpose of performing its duties in the administration of the provisions of chapters 462 to 467, inclusive, of NRS.

5. Except for the disclosures required by subsections 1 to 4, inclusive, and except as otherwise provided in section 6 of this act, a report of a presentence investigation or general investigation and the sources of information for such a report are confidential and must not be made a part of any public record.

Sec. 33. NRS 176A.630 is hereby amended to read as follows:

176A.630 If the probationer is arrested, by or without warrant, in another judicial district of this state, the court which granted the probation may assign the case to the district court of that district, with the consent of that court. The court retaining or thus acquiring jurisdiction shall cause the defendant to be brought before it, consider the standards adopted pursuant to

NRS 213.10988 and the recommendation, if any, of the Chief Parole and Probation Officer. Upon determining that the probationer has violated a condition of his probation, the court shall, if practicable, order the probationer to make restitution for any necessary expenses incurred by a governmental entity in returning him to the court for violation of his probation. The court may:

1. Continue or revoke the probation or suspension of sentence;
2. Order the probationer to a term of residential confinement pursuant to NRS 176A.660;
3. Order the probationer to undergo a program of regimental discipline pursuant to NRS 176A.780;

4. Cause the sentence imposed to be executed; or

5. Modify the original sentence imposed by reducing the term of imprisonment and cause the modified sentence to be executed. The court shall not make the term of imprisonment less than the minimum term of imprisonment prescribed by the applicable penal statute. If the Chief Parole and Probation Officer recommends that the sentence of a probationer be modified and the modified sentence be executed, he shall provide notice of the recommendation to any victim of the crime for which the probationer was convicted who has requested in writing to be notified and who has provided his current address to the Division. The notice must inform the victim that he has the right to submit documents to the court and to be present and heard at the hearing to determine whether the sentence of a probationer who has violated a condition of his probation should be modified. The court shall not modify the sentence of a probationer and cause the sentence to be executed until it has confirmed that the Chief Parole and Probation Officer has complied with the provisions of this subsection. The Chief Parole and Probation Officer must not be held responsible when such notification is not received by the victim if the victim has not provided a current address. ~~All~~ Except as otherwise provided in section 6 of this act, all personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division pursuant to this subsection is confidential.

Sec. 34. NRS 178.5691 is hereby amended to read as follows:

178.5691 ~~All~~ Except as otherwise provided in section 6 of this act, all personal information, including, but not limited to, a current or former address, which pertains to a victim, relative, witness or other person and which is received pursuant to the provisions of NRS 178.569 to 178.5698, inclusive, is confidential.

Sec. 35. NRS 179.495 is hereby amended to read as follows:

179.495 1. Within a reasonable time but not later than 90 days after the termination of the period of an order or any extension thereof, the judge who issued the order shall cause to be served on the chief of the Investigation Division of the Department of Public Safety, persons named in the order and

any other parties to intercepted communications, an inventory which must include notice of:

- (a) The fact of the entry and a copy of the order.
- (b) The fact that during the period wire or oral communications were or were not intercepted.

→ ~~[The]~~ Except as otherwise provided in section 6 of this act, the inventory filed pursuant to this section is confidential and must not be released for inspection unless subpoenaed by a court of competent jurisdiction.

2. The judge, upon receipt of a written request from any person who was a party to an intercepted communication or from the person's attorney, shall make available to the person or his counsel those portions of the intercepted communications which contain his conversation. On an ex parte showing of good cause to a district judge, the serving of the inventory required by this section may be postponed for such time as the judge may provide.

Sec. 36. NRS 179A.290 is hereby amended to read as follows:

179A.290 1. The Director of the Department shall establish within the Central Repository a program to compile and analyze data concerning offenders who commit sexual offenses. The program must be designed to:

- (a) Provide statistical data relating to the recidivism of offenders who commit sexual offenses; and
- (b) Use the data provided by the Division of Child and Family Services of the Department of Health and Human Services pursuant to NRS 62H.220 to:
 - (1) Provide statistical data relating to the recidivism of juvenile sex offenders after they become adults; and

- (2) Assess the effectiveness of programs for the treatment of juvenile sex offenders.

2. The Division of Parole and Probation and the Department of Corrections shall assist the Director of the Department in obtaining data and in carrying out the program.

3. The Director of the Department shall report the statistical data and findings from the program to:

- (a) The Legislature at the beginning of each regular session.
- (b) The Advisory Commission on Sentencing on or before January 31 of each even-numbered year.

4. ~~[The]~~ Except as otherwise provided in section 6 of this act, the data acquired pursuant to this section is confidential and must be used only for the purpose of research. The data and findings generated pursuant to this section must not contain information that may reveal the identity of a juvenile sex offender or the identity of an individual victim of a crime.

Sec. 37. NRS 200.3771 is hereby amended to read as follows:

200.3771 1. Except as otherwise provided in this section ~~[and]~~ and section 6 of this act, any information which is contained in:

- (a) Court records, including testimony from witnesses;
- (b) Intelligence or investigative data, reports of crime or incidents of criminal activity or other information;

(c) Records of criminal history, as that term is defined in NRS 179A.070; and

(d) Records in the Central Repository for Nevada Records of Criminal History,

➡ that reveals the identity of a victim of sexual assault is confidential, including but not limited to the victim's photograph, likeness, name, address or telephone number.

2. A defendant charged with a sexual assault and his attorney are entitled to all identifying information concerning the victim in order to prepare the defense of the defendant. The defendant and his attorney shall not disclose this information except, as necessary, to those persons directly involved in the preparation of the defense.

3. A court of competent jurisdiction may authorize the release of the identifying information, upon application, if the court determines that:

(a) The person making the application has demonstrated to the satisfaction of the court that good cause exists for the disclosure;

(b) The disclosure will not place the victim at risk of personal harm; and

(c) Reasonable notice of the application and an opportunity to be heard have been given to the victim.

4. Nothing in this section prohibits:

(a) Any publication or broadcast by the media concerning a sexual assault.

(b) The disclosure of identifying information to any nonprofit organization or public agency whose purpose is to provide counseling, services for the management of crises or other assistance to the victims of crimes if:

(1) The organization or agency needs identifying information of victims to offer such services; and

(2) The court or a law enforcement agency approves the organization or agency for the receipt of the identifying information.

5. The willful violation of any provision of this section or the willful neglect or refusal to obey any court order made pursuant thereto is punishable as criminal contempt.

Sec. 38. NRS 200.3772 is hereby amended to read as follows:

200.3772 1. A victim of a sexual assault may choose a pseudonym to be used instead of the victim's name on all files, records and documents pertaining to the sexual assault, including, without limitation, criminal intelligence and investigative reports, court records and media releases.

2. A victim who chooses to use a pseudonym shall file a form to choose a pseudonym with the law enforcement agency investigating the offense. The form must be provided by the law enforcement agency.

3. If the victim files a form to use a pseudonym, as soon as practicable the law enforcement agency shall make a good faith effort to:

(a) Substitute the pseudonym for the name of the victim on all reports, files and records in the agency's possession; and

(b) Notify the prosecuting attorney of the pseudonym.

↪ The law enforcement agency shall maintain the form in a manner that protects the confidentiality of the information contained therein.

4. Upon notification that a victim has elected to be designated by a pseudonym, the court shall ensure that the victim is designated by the pseudonym in all legal proceedings concerning the sexual assault.

5. ~~[The]~~ Except as otherwise provided in section 6 of this act, the information contained on the form to choose a pseudonym concerning the actual identity of the victim is confidential and must not be disclosed to any person other than the defendant or his attorney unless a court of competent jurisdiction orders the disclosure of the information. The disclosure of information to a defendant or his attorney is subject to the conditions and restrictions specified in subsection 2 of NRS 200.3771. A person who violates this subsection is guilty of a misdemeanor.

6. A court of competent jurisdiction may order the disclosure of the information contained on the form only if it finds that the information is essential in the trial of the defendant accused of the sexual assault or the identity of the victim is at issue.

7. A law enforcement agency that complies with the requirements of this section is immune from civil liability for unknowingly or unintentionally:

(a) Disclosing any information contained on the form filed by a victim of sexual assault pursuant to this section that reveals the identity of the victim; or

(b) Failing to substitute the pseudonym of the victim for the name of the victim on all reports, files and records in the agency's possession.

Sec. 39. NRS 200.5095 is hereby amended to read as follows:

200.5095 1. ~~[Reports]~~ Except as otherwise provided in section 6 of this act, reports made pursuant to NRS 200.5093, 200.50935 and 200.5094, and records and investigations relating to those reports, are confidential.

2. A person, law enforcement agency or public or private agency, institution or facility who willfully releases data or information concerning the reports and investigation of the abuse, neglect, exploitation or isolation of older persons or vulnerable persons, except:

(a) Pursuant to a criminal prosecution;

(b) Pursuant to NRS 200.50982; or

(c) To persons or agencies enumerated in subsection 3,

↪ is guilty of a misdemeanor.

3. Except as otherwise provided in subsection 2 and NRS 200.50982, ~~§~~ and section 6 of this act, data or information concerning the reports and investigations of the abuse, neglect, exploitation or isolation of an older person or a vulnerable person is available only to:

(a) A physician who is providing care to an older person or a vulnerable person who may have been abused, neglected, exploited or isolated;

(b) An agency responsible for or authorized to undertake the care, treatment and supervision of the older person or vulnerable person;

(c) A district attorney or other law enforcement official who requires the information in connection with an investigation of the abuse, neglect, exploitation or isolation of the older person or vulnerable person;

(d) A court which has determined, in camera, that public disclosure of such information is necessary for the determination of an issue before it;

(e) A person engaged in bona fide research, but , except as otherwise provided in section 6 of this act, the identity of the subjects of the report must remain confidential;

(f) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

(g) Any comparable authorized person or agency in another jurisdiction;

(h) A legal guardian of the older person or vulnerable person, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the legal guardian of the older person or vulnerable person is not the person suspected of such abuse, neglect, exploitation or isolation;

(i) If the older person or vulnerable person is deceased, the executor or administrator of his estate, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the executor

or administrator is not the person suspected of such abuse, neglect, exploitation or isolation; or

(j) The older person or vulnerable person named in the report as allegedly being abused, neglected, exploited or isolated, if that person is not legally incompetent.

4. If the person who is reported to have abused, neglected, exploited or isolated an older person or a vulnerable person is the holder of a license or certificate issued pursuant to chapters 449, 630 to 641B, inclusive, or 654 of NRS, information contained in the report must be submitted to the board that issued the license.

Sec. 40. NRS 202.3662 is hereby amended to read as follows:

202.3662 1. Except as otherwise provided in this section and NRS 202.3665 ~~and~~ and section 6 of this act:

(a) An application for a permit, and all information contained within that application; and

(b) All information provided to a sheriff or obtained by a sheriff in the course of his investigation of an applicant,

↪ are confidential.

2. Any records regarding an applicant or permittee may be released to a law enforcement agency for the purpose of conducting an investigation or prosecution.

3. Statistical abstracts of data compiled by a sheriff regarding permits applied for or issued pursuant to NRS 202.3653 to 202.369, inclusive,

including, but not limited to, the number of applications received and permits issued, may be released to any person.

Sec. 41. NRS 209.392 is hereby amended to read as follows:

209.392 1. Except as otherwise provided in NRS 209.3925 and 209.429, the Director may, at the request of an offender who is eligible for residential confinement pursuant to the standards adopted by the Director pursuant to subsection 3 and who has:

- (a) Established a position of employment in the community;
- (b) Enrolled in a program for education or rehabilitation; or
- (c) Demonstrated an ability to pay for all or part of the costs of his confinement and to meet any existing obligation for restitution to any victim of his crime,

↪ assign the offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement, pursuant to NRS 213.380, for not longer than the remainder of his sentence.

2. Upon receiving a request to serve a term of residential confinement from an eligible offender, the Director shall notify the Division of Parole and Probation. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim of the offender's request and advise the victim that he may submit documents regarding the request to the Division of Parole and Probation. If a current address has not been provided as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if such notification is not received by the victim. ~~[(All)]~~ Except as otherwise provided in section 6 of this act, all personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

3. The Director, after consulting with the Division of Parole and Probation, shall adopt, by regulation, standards providing which offenders are eligible for residential confinement. The standards adopted by the Director must provide that an offender who:

- (a) Is not eligible for parole or release from prison within a reasonable period;
- (b) Has recently committed a serious infraction of the rules of an institution or facility of the Department;
- (c) Has not performed the duties assigned to him in a faithful and orderly manner;
- (d) Has ever been convicted of:
 - (1) Any crime involving the use or threatened use of force or violence against the victim; or
 - (2) A sexual offense;

(e) Has more than one prior conviction for any felony in this State or any offense in another state that would be a felony if committed in this State, not including a violation of NRS 484.379, 484.3795 or 484.37955;

(f) Has escaped or attempted to escape from any jail or correctional institution for adults; or

(g) Has not made an effort in good faith to participate in or to complete any educational or vocational program or any program of treatment, as ordered by the Director,

➡ is not eligible for assignment to the custody of the Division of Parole and Probation to serve a term of residential confinement pursuant to this section.

4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

➡ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

6. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 42. NRS 209.3925 is hereby amended to read as follows:

209.3925 1. Except as otherwise provided in subsection 6, the Director may assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement pursuant to NRS 213.380 or other appropriate supervision as determined by the Division of Parole and Probation, for not longer than the remainder of his sentence, if:

(a) The Director has reason to believe that the offender is:

(1) Physically incapacitated or in ill health to such a degree that he does not presently, and likely will not in the future, pose a threat to the safety of the public; or

(2) In ill health and expected to die within 12 months, and does not presently, and likely will not in the future, pose a threat to the safety of the public; and

(b) At least two physicians licensed pursuant to chapter 630 or 633 of NRS, one of whom is not employed by the Department, verify, in writing, that the offender is:

(1) Physically incapacitated or in ill health; or

(2) In ill health and expected to die within 12 months.

2. If the Director intends to assign an offender to the custody of the Division of Parole and Probation pursuant to this section, at least 45 days before the date the offender is expected to be released from the custody of the Department, the Director shall notify:

(a) If the offender will reside within this State after he is released from the custody of the Department, the board of county commissioners of the county in which the offender will reside; and

(b) The Division of Parole and Probation.

3. If any victim of a crime committed by the offender has, pursuant to subsection 4 of NRS 213.130, requested to be notified of the consideration of a prisoner for parole and has provided a current address, the Division of Parole and Probation shall notify the victim that:

(a) The Director intends to assign the offender to the custody of the Division of Parole and Probation pursuant to this section; and

(b) The victim may submit documents to the Division of Parole and Probation regarding such an assignment.

➡ If a current address has not been provided by a victim as required by subsection 4 of NRS 213.130, the Division of Parole and Probation must not be held responsible if notification is not received by the victim. ~~[(A)]~~ Except as otherwise provided in section 6 of this act, all personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Division of Parole and Probation pursuant to this subsection is confidential.

4. If an offender assigned to the custody of the Division of Parole and Probation pursuant to this section escapes or violates any of the terms or conditions of his residential confinement or other appropriate supervision as determined by the Division of Parole and Probation:

(a) The Division of Parole and Probation may, pursuant to the procedure set forth in NRS 213.410, return the offender to the custody of the Department.

(b) The offender forfeits all or part of the credits for good behavior earned by him before the escape or violation, as determined by the Director. The Director may provide for a forfeiture of credits pursuant to this paragraph only after proof of the offense and notice to the offender and may restore

credits forfeited for such reasons as he considers proper. The decision of the Director regarding such a forfeiture is final.

5. The assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed:

(a) A continuation of his imprisonment and not a release on parole; and

(b) For the purposes of NRS 209.341, an assignment to a facility of the Department,

↳ except that the offender is not entitled to obtain any benefits or to participate in any programs provided to offenders in the custody of the Department.

6. The Director may not assign an offender to the custody of the Division of Parole and Probation pursuant to this section if the offender is sentenced to death or imprisonment for life without the possibility of parole.

7. An offender does not have a right to be assigned to the custody of the Division of Parole and Probation pursuant to this section, or to remain in that custody after such an assignment, and it is not intended that the provisions of this section or of NRS 213.371 to 213.410, inclusive, create any right or interest in liberty or property or establish a basis for any cause of action against the State, its political subdivisions, agencies, boards, commissions, departments, officers or employees.

Sec. 43. NRS 209.419 is hereby amended to read as follows:

209.419 1. Communications made by an offender on any telephone in an institution or facility to any person outside the institution or facility may be intercepted if:

(a) The interception is made by an authorized employee of the Department; and

(b) Signs are posted near all telephones in the institution or facility indicating that communications may be intercepted.

2. The Director shall provide notice or cause notice to be provided to both parties to a communication which is being intercepted pursuant to subsection 1, indicating that the communication is being intercepted. For the purposes of this section, a periodic sound which is heard by both parties during the communication shall be deemed notice to both parties that the communication is being intercepted.

3. The Director shall adopt regulations providing for an alternate method of communication for those communications by offenders which are confidential.

4. ~~[A]~~ Except as otherwise provided in section 6 of this act, a communication made by an offender is confidential if it is made to:

(a) A federal or state officer.

(b) A local governmental officer who is at some time responsible for the custody of the offender.

(c) An officer of any court.

(d) An attorney who has been admitted to practice law in any state or is employed by a recognized agency providing legal assistance.

(e) A reporter or editorial employee of any organization that reports general news including, but not limited to, any wire service or news service, newspaper, periodical, press association or radio or television station.

(f) The Director.

(g) Any other employee of the Department whom the Director may, by regulation, designate.

5. Reliance in good faith on a request or order from the Director or his authorized representative constitutes a complete defense to any action brought against any public utility intercepting or assisting in the interception of communications made by offenders pursuant to subsection 1.

Sec. 44. NRS 209.521 is hereby amended to read as follows:

209.521 1. If a victim of an offender provides his current address to the Director and makes a written request for notification of the offender's release or escape, the Director shall notify the victim if the offender:

(a) Will be released into the community for the purpose of employment, training or education, or for any other purpose for which release is authorized; or

(b) Has escaped from the custody of the Department.

2. An offender must not be temporarily released into the community for any purpose unless notification of the release has been given to every victim of the offender who has requested notification and has provided his current address.

3. The Director may not be held responsible for any injury proximately caused by his failure to give any notice required pursuant to subsection 1 or 2 if no address was provided to the Director or the address provided is inaccurate or not current.

4. ~~Any~~ *Except as otherwise provided in section 6 of this act, all* personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Director pursuant to this section is confidential.

5. As used in this section, "victim" has the meaning ascribed to it in NRS 213.005.

Sec. 45. NRS 211A.140 is hereby amended to read as follows:

211A.140 1. ~~Any~~ *Except as otherwise provided in section 6 of this act, any* information regarding a probationer obtained by the chief, an assistant or other employee of the department in the discharge of his duties shall be deemed confidential. Except as otherwise provided in subsection 2, the chief, an assistant or other employee of the department shall not disclose such information.

2. The chief, an assistant or other employee of the department shall disclose information obtained in the discharge of his duties to the court or the district attorney upon request, or to any other person as ordered by the court or as provided by law.

Sec. 46. NRS 213.010 is hereby amended to read as follows:

213.010 1. The State Board of Pardons Commissioners consists of the Governor, the justices of the Supreme Court and the Attorney General.

2. Meetings of the Board for the purpose of considering applications for clemency may be held semiannually or oftener, on such dates as may be fixed by the Board.

3. The Board shall give written notice at least 15 days before a meeting to each victim of the crimes committed by each person whose application for clemency will be considered at the meeting, if the victim so requests in writing and provides his current address. If a current address is not provided, the Board may not be held responsible if the notice is not received by the victim. The victim may submit a written response to the Board at any time before the meeting. ~~[All]~~ Except as otherwise provided in section 6 of this act, all personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Board pursuant to this subsection is confidential.

Sec. 47. NRS 213.040 is hereby amended to read as follows:

213.040 All district attorneys receiving notice of an application for a pardon, or commutation of punishment, or remission of fine or forfeiture, shall transmit forthwith to:

1. The Board a statement in writing of facts surrounding the commission of the offense for which the applicant is incarcerated or subject to penalty and any information affecting the merits of the application.

2. Each victim of the person applying for clemency a copy of the notice of the application, if the victim so requests in writing and provides his current address. If a current address is not provided, the district attorney may not be held responsible if a copy of the notice is not received by the victim. ~~[All]~~ Except as otherwise provided in section 6 of this act, all personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the district attorney pursuant to this subsection is confidential.

Sec. 48. NRS 213.095 is hereby amended to read as follows:

213.095 If the Board remits a fine or forfeiture, commutes a sentence or grants a pardon, it shall give written notice of its action to the victim of the person granted clemency, if the victim so requests in writing and provides his current address. If a current address is not provided, the Board may not be held responsible if the notice is not received by the victim. ~~[All]~~ Except as otherwise provided in section 6 of this act, all personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Board pursuant to this section is confidential.

Sec. 49. NRS 213.130 is hereby amended to read as follows:

213.130 1. The Department of Corrections shall:

(a) Determine when a prisoner sentenced to imprisonment in the state prison is eligible to be considered for parole;

(b) Notify the State Board of Parole Commissioners of the eligibility of the prisoner to be considered for parole; and

(c) Before a meeting to consider the prisoner for parole, compile and provide to the Board data that will assist the Board in determining whether parole should be granted.

2. If a prisoner is being considered for parole from a sentence imposed for conviction of a crime which involved the use of force or violence against a victim and which resulted in bodily harm to a victim and if original or duplicate photographs that depict the injuries of the victim or the scene of the crime were admitted at the trial of the prisoner or were part of the report of the presentence investigation and are reasonably available, a representative sample of such photographs must be included with the information submitted to the Board at the meeting. A prisoner may not bring a cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees for any action that is taken pursuant to this subsection or for failing to take any action pursuant to this subsection, including, without limitation, failing to include photographs or including only certain photographs. As used in this subsection, "photograph" includes any video, digital or other photographic image.

3. Meetings to consider prisoners for parole may be held semiannually or more often, on such dates as may be fixed by the Board. All meetings must be open to the public.

4. Not later than 5 days after the date on which the Board fixes the date of the meeting to consider a prisoner for parole, the Board shall notify the victim of the prisoner who is being considered for parole of the date of the meeting and of his rights pursuant to this subsection, if the victim has requested notification in writing and has provided his current address or if the victim's current address is otherwise known by the Board. The victim of a prisoner being considered for parole may submit documents to the Board and may testify at the meeting held to consider the prisoner for parole. A prisoner must not be considered for parole until the Board has notified any victim of his rights pursuant to this subsection and he is given the opportunity to exercise those rights. If a current address is not provided to or otherwise known by the Board, the Board must not be held responsible if such notification is not received by the victim.

5. The Board may deliberate in private after a public meeting held to consider a prisoner for parole.

6. The Board of State Prison Commissioners shall provide suitable and convenient rooms or space for use of the Board.

7. If a victim is notified of a meeting to consider a prisoner for parole pursuant to subsection 4, the Board shall, upon making a final decision concerning the parole of the prisoner, notify the victim of its final decision.

8. ~~ALL~~ Except as otherwise provided in section 6 of this act, all personal information, including, but not limited to, a current or former address, which

pertains to a victim and which is received by the Board pursuant to this section is confidential.

9. For the purposes of this section, "victim" has the meaning ascribed to it in NRS 213.005.

Sec. 50. NRS 217.105 is hereby amended to read as follows:

217.105 ~~[Any]~~ Except as otherwise provided in section 6 of this act, any information which a compensation officer obtains in the investigation of a claim for compensation pursuant to NRS 217.090 or which is submitted pursuant to NRS 217.100 is confidential and must not be disclosed except:

1. Upon the request of the applicant or his attorney;
2. In the necessary administration of this chapter; or
3. Upon the lawful order of a court of competent jurisdiction,

↪ unless the disclosure is otherwise prohibited by law.

Sec. 51. NRS 217.110 is hereby amended to read as follows:

217.110 1. Upon receipt of an application for compensation, the compensation officer shall review the application to determine whether the applicant qualifies for compensation. The compensation officer shall deny the claim within 5 days after receipt of the application if the applicant's ineligibility is apparent from the facts stated in the application. The applicant may appeal the denial to a hearing officer within 15 days after the decision. If the hearing officer determines that the applicant may be entitled to compensation, the hearing officer shall order the compensation officer to complete an investigation and render a decision pursuant to subsection 2. If the hearing officer denies the appeal, the applicant may appeal to an appeals officer pursuant to NRS 217.117.

2. If the compensation officer does not deny the application pursuant to subsection 1, or if he is ordered to proceed by the hearing officer, he shall conduct an investigation and, except as otherwise provided in subsection 4, render a decision within 60 days after his receipt of the application or order. If in conducting his investigation the compensation officer believes that:

- (a) Reports on the previous medical history of the victim;
- (b) An examination of the victim and a report of that examination;
- (c) A report on the cause of death of the victim by an impartial medical expert; or

(d) Investigative or police reports,
↪ would aid him in making his decision, the compensation officer may order the reports.

3. Upon the request of a compensation officer pursuant to subsection 2 for investigative or police reports which concern a minor who committed a crime against the victim, a juvenile court or a law enforcement agency shall provide the compensation officer with a copy of the requested investigative or police reports. ~~[Any]~~ Except as otherwise provided in section 6 of this act, any reports obtained by a compensation officer pursuant to this subsection are confidential and must not be disclosed except upon the lawful order of a court of competent jurisdiction.

4. When additional reports are requested pursuant to subsection 2, the compensation officer shall render a decision in the case, including an order directing the payment of compensation, if compensation is due, within 15 days after receipt of the reports.

Sec. 52. NRS 218.5356 is hereby amended to read as follows:

218.5356 1. The Legislative Bureau of Educational Accountability and Program Evaluation is hereby created within the Fiscal Analysis Division of the Legislative Counsel Bureau. The fiscal analysts shall appoint to the Legislative Bureau of Educational Accountability and Program Evaluation a Chief and such other personnel as the fiscal analysts determine are necessary for the Bureau to carry out its duties pursuant to this section.

2. The Bureau shall, as the fiscal analysts determine is necessary or at the request of the Committee:

(a) Collect and analyze data and issue written reports concerning:

(1) The effectiveness of the provisions of NRS 385.3455 to 385.391, inclusive, in improving the accountability of the schools of this State;

(2) The statewide program to reduce the ratio of pupils per class per licensed teacher prescribed in NRS 388.700, 388.710 and 388.720;

(3) The statewide program to educate persons with disabilities that is set forth in chapter 395 of NRS;

(4) The results of the examinations of the National Assessment of Educational Progress that are administered pursuant to NRS 389.012; and

(5) Any program or legislative measure, the purpose of which is to reform the system of education within this State.

(b) Conduct studies and analyses to evaluate the performance and progress of the system of public education within this State. Such studies and analyses may be conducted:

(1) As the fiscal analysts determine are necessary; or

(2) At the request of the Legislature.

➡ This paragraph does not prohibit the Bureau from contracting with a person or entity to conduct studies and analyses on behalf of the Bureau.

(c) On or before December 31 of each even-numbered year, submit a written report of its findings pursuant to paragraphs (a) and (b) to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The Bureau shall, on or before December 31 of each odd-numbered year, submit a written report of its findings pursuant to paragraphs (a) and (b) to the Director of the Legislative Counsel Bureau for transmission to the Legislative Commission.

3. The Bureau may, pursuant to NRS 218.687, require a school, a school district, the Nevada System of Higher Education or the Department of Education to submit to the Bureau books, papers, records and other information that the Chief of the Bureau determines are necessary to carry out the duties of the Bureau pursuant to this section. An entity whom the Bureau requests to produce records or other information shall provide the

records or other information in any readily available format specified by the Bureau.

4. Except as otherwise provided in this subsection ~~or~~ or section 6 of this act, any information obtained by the Bureau pursuant to this section shall be deemed a work product that is confidential pursuant to NRS 218.625. The Bureau may, at the discretion of the Chief and after submission to the Legislature or Legislative Commission, as appropriate, publish reports of its findings pursuant to paragraphs (a) and (b) of subsection 2.

5. This section does not prohibit the Department of Education or the State Board of Education from conducting analyses, submitting reports or otherwise reviewing educational programs in this State.

Sec. 53. NRS 218.870 is hereby amended to read as follows:

218.870 1. The Legislative Auditor shall keep or cause to be kept a complete file of copies of all reports of audits, examinations, investigations and all other reports or releases issued by him.

2. All working papers from an audit are confidential and may be destroyed by the Legislative Auditor 5 years after the report is issued, except that the

Legislative Auditor:

(a) Shall release such working papers when subpoenaed by a court ~~or~~ when required to do so pursuant to section 6 of this act; or

(b) May make such working papers available for inspection by an authorized representative of any other governmental entity for a matter officially before him or by any other person authorized by the Legislative Commission.

Sec. 54. NRS 228.450 is hereby amended to read as follows:

228.450 1. The Ombudsman for Victims of Domestic Violence shall:

(a) Prepare quarterly reports relating to victims of domestic violence from information collected from the Central Repository for Nevada Records of Criminal History, if any such information is available.

(b) Provide necessary assistance to victims of domestic violence.

(c) Provide education to the public concerning domestic violence, including, without limitation, the prevention of domestic violence, available assistance to victims of domestic violence and available treatment for persons who commit domestic violence.

(d) Perform such other tasks as are necessary to carry out his duties and the functions of his office.

2. Except as otherwise provided in this subsection ~~and~~ and section 6 of this act, information collected pursuant to paragraph (a) of subsection 1 is confidential and must not be disclosed to any person under any circumstances, including, without limitation, pursuant to a subpoena, search warrant or discovery proceeding. Such information may be used for statistical purposes if the identity of the person is not discernible from the information disclosed.

3. Any grant received by the Office of the Attorney General for assistance to victims of domestic violence may be used to compensate the Ombudsman for Victims of Domestic Violence.

Sec. 55. NRS 231.069 is hereby amended to read as follows:

231.069 1. ~~FFF~~ *Except as otherwise provided in section 6 of this act, if* so requested by a client, the Commission on Economic Development shall keep confidential any record or other document in its possession concerning the initial contact with and research and planning for that client. If such a request is made, the Executive Director shall attach to the file containing the record or document a certificate signed by him stating that a request for confidentiality was made by the client and the date of the request.

2. Records and documents that are confidential pursuant to subsection 1 remain confidential until the client:

(a) Initiates any process regarding the location of his business in Nevada which is within the jurisdiction of a state agency other than the Commission; or

(b) Decides to locate his business in Nevada.

Sec. 56. NRS 233.190 is hereby amended to read as follows:

233.190 1. *Except as otherwise provided in this section ~~FFF~~ or section 6 of this act,* any information gathered by the Commission in the course of its investigation of an alleged unlawful discriminatory practice in housing, employment or public accommodations is confidential.

2. The Commission may disclose information gathered pursuant to subsection 1 to:

(a) Any governmental entity as appropriate or necessary to carry out its duties pursuant to this chapter; or

(b) To any other person if the information is provided in a manner which does not include any information that may be used to identify the complainant, the party against whom the unlawful discriminatory practice is alleged or any person who provided information to the Commission during the investigation.

3. Except as otherwise provided in subsection 4, the Commission shall disclose information gathered pursuant to subsection 1 to the complainant and the party against whom the unlawful discriminatory practice is alleged if:

(a) Each has consented to such disclosure; or

(b) The Commission has determined to conduct a hearing on the matter or apply for a temporary restraining order or an injunction or an action has been filed in court concerning the complaint.

4. The Commission may not disclose to the complainant or the party against whom the unlawful discriminatory practice is alleged:

(a) Any information obtained during negotiations for a settlement or attempts at mediating or conciliating the complaint.

(b) Any investigative notes or reports made by the Commission.

(c) Any information that may be used to identify a person who provided information to the Commission during the investigation and who has requested anonymity.

5. Except as otherwise provided in this section ~~or~~ or section 6 of this act, if the Commission's attempts at mediating or conciliating the cause of the grievance succeed, the information gathered pursuant to subsection 1 must remain confidential.

6. If the Commission proceeds with a hearing or applies for injunctive relief, confidentiality concerning any information, except negotiations for a settlement or attempts at mediating or conciliating the cause of the grievance, is no longer required.

Sec. 57. NRS 244.335 is hereby amended to read as follows:

244.335 1. Except as otherwise provided in subsections 2, 3 and 4, a board of county commissioners may:

(a) Except as otherwise provided in NRS 244.331 to 244.3345, inclusive, 598D.150 and 640C.100, regulate all character of lawful trades, callings, industries, occupations, professions and business conducted in its county outside of the limits of incorporated cities and towns.

(b) Except as otherwise provided in NRS 244.3359 and 576.128, fix, impose and collect a license tax for revenue or for regulation, or for both revenue and regulation, on such trades, callings, industries, occupations, professions and business.

2. The county license boards have the exclusive power in their respective counties to regulate entertainers employed by an entertainment by referral service and the business of conducting a dancing hall, escort service, entertainment by referral service or gambling game or device permitted by law, outside of an incorporated city. The county license boards may fix, impose and collect license taxes for revenue or for regulation, or for both revenue and regulation, on such employment and businesses.

3. A board of county commissioners shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.

4. The board of county commissioners or county license board shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. No license to engage in any type of business may be granted unless the applicant for the license signs an affidavit affirming that the business has complied with the provisions of NRS 360.780. The county license board shall provide upon request an application for a business license pursuant to NRS 360.780. As used in this subsection, "professional" means a person who:

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his profession for any type of compensation as an employee.

5. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:

(a) The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

(b) Another regulatory agency of the State has issued or will issue a license required for this activity.

6. Any license tax levied for the purposes of NRS 244.3358 or 244A.597 to 244A.655, inclusive, constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien has the same priority as a lien for general taxes. The lien must be enforced:

(a) By recording in the office of the county recorder, within 6 months after the date on which the tax became delinquent or was otherwise determined to be due and owing, a notice of the tax lien containing the following:

(1) The amount of tax due and the appropriate year;

(2) The name of the record owner of the property;

(3) A description of the property sufficient for identification; and

(4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and

(b) By an action for foreclosure against the property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.

7. The board of county commissioners may delegate the authority to enforce liens from taxes levied for the purposes of NRS 244A.597 to 244A.655, inclusive, to the county fair and recreation board. If the authority is so delegated, the board of county commissioners shall revoke or suspend the license of a business upon certification by the county fair and recreation board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 244.3357 ~~and~~ and section 6 of this act, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the payment of such license taxes or as the result of any audit or examination of the books by any authorized employee of a county fair and recreation board of the county for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, officer or employee of the county fair and recreation board or the county imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an

agreement with the Department of Taxation for the exchange of information concerning taxpayers.

Sec. 58. NRS 244.428 is hereby amended to read as follows:

244.428 1. The board of county commissioners of any county may provide by ordinance for the designation of a youth shelter operated within the county as an approved youth shelter.

2. If a board of county commissioners has adopted an ordinance pursuant to subsection 1, a youth shelter that is located in that county and seeking to be designated as an approved youth shelter may apply to the board of county commissioners for such a designation.

3. An ordinance adopted by a board of county commissioners pursuant to subsection 1 must:

(a) Prescribe the requirements for designation of a youth shelter as an approved youth shelter, including, without limitation:

(1) A requirement that the youth shelter provide necessary services;

(2) The form and manner of the application for designation or renewal of a designation as an approved youth shelter;

(3) An application fee in an amount not to exceed the actual cost to the county for reviewing the application; and

(4) A requirement that an applicant must comply with the provisions of an ordinance adopted pursuant to this section and with all applicable federal, state and local laws and ordinances pertaining to shelters for the homeless.

(b) Provide for reasonable inspections of an approved youth shelter to confirm that the youth shelter is complying with the provisions of an ordinance adopted to carry out the provisions of this section.

(c) Provide for the revocation of a designation as an approved youth shelter for failure to comply with the provisions of an ordinance adopted to carry out the provisions of this section.

(d) Require an approved youth shelter to conduct an interview to determine whether a youth is a runaway or homeless youth and is qualified to receive the necessary services of the approved youth shelter.

(e) Upon admission of a runaway or homeless youth to a shelter, require:

(1) The notification of the parent, guardian or custodian of the runaway or homeless youth concerning the whereabouts of the runaway or homeless youth as soon as practicable, except in circumstances of suspected abuse or neglect;

(2) The notification of state and local law enforcement agencies concerning the whereabouts of the runaway or homeless youth; and

(3) A licensed professional to perform an evaluation of the youth to determine:

(I) The reasons why the youth is a runaway or homeless youth;

(II) Whether the youth is a victim of abuse or neglect; and

(III) Whether the youth needs immediate medical care or counseling.

(f) Require an approved youth shelter to return or facilitate the return of a runaway or homeless youth to the parent, guardian or custodian who was

notified of the whereabouts of the runaway or homeless youth pursuant to subparagraph (1) of paragraph (e) if the parent, guardian or custodian so requests.

(g) Provide for the liability of a parent, guardian or custodian of a runaway or homeless youth for any expenses or costs incurred by the approved youth shelter for providing services to the runaway or homeless youth only if the services of the shelter were obtained through fraud or misrepresentation.

(h) ~~[Require]~~ Except as otherwise provided in section 6 of this act, require the information or records obtained by an approved youth shelter to remain confidential, unless the use or disclosure of the information or records is necessary to:

(1) Locate a parent, guardian or custodian of a runaway or homeless youth;

(2) Comply with the duty to report abuse or neglect of a child pursuant to NRS 432B.220;

(3) Notify state and local law enforcement agencies or the clearinghouse; or

(4) Seek appropriate assistance for a runaway or homeless youth from public and private agencies.

4. In a county where the board of county commissioners has adopted an ordinance pursuant to subsection 1, the board of county commissioners may establish, by ordinance, other regulations as are necessary to carry out the provisions of this section.

5. As used in this section:

(a) "Abuse or neglect" means abuse or neglect of a child as defined in NRS 432B.020.

(b) "Clearinghouse" has the meaning ascribed to it in NRS 432.150.

(c) "Licensed professional" includes, without limitation:

(1) A social worker;

(2) A registered nurse;

(3) A physician;

(4) A psychologist;

(5) A teacher; or

(6) Any other class of persons who are identified in an ordinance adopted by a county who hold a professional license in this State and who are trained to recognize indications of abuse or neglect.

Sec. 59. NRS 250.150 is hereby amended to read as follows:

250.150 If a person listed in NRS 250.140 requests confidentiality, the confidential information of that person may only be disclosed as provided in NRS 250.160 or 250.180 ~~or~~ or section 6 of this act.

Sec. 60. NRS 268.095 is hereby amended to read as follows:

268.095 1. Except as otherwise provided in subsection 4, the city council or other governing body of each incorporated city in this State, whether organized under general law or special charter, may:

(a) Except as otherwise provided in subsection 2 and NRS 268.0968 and 576.128, fix, impose and collect for revenues or for regulation, or both, a license tax on all character of lawful trades, callings, industries, occupations, professions and businesses conducted within its corporate limits.

(b) Assign the proceeds of any one or more of such license taxes to the county within which the city is situated for the purpose or purposes of making the proceeds available to the county:

(1) As a pledge as additional security for the payment of any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(2) For redeeming any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(3) For defraying the costs of collecting or otherwise administering any such license tax so assigned, of the county fair and recreation board and of officers, agents and employees hired thereby, and of incidentals incurred thereby;

(4) For operating and maintaining recreational facilities under the jurisdiction of the county fair and recreation board;

(5) For improving, extending and bettering recreational facilities authorized by NRS 244A.597 to 244A.655, inclusive; and

(6) For constructing, purchasing or otherwise acquiring such recreational facilities.

(c) Pledge the proceeds of any tax imposed on the revenues from the rental of transient lodging pursuant to this section for the payment of any general or special obligations issued by the city for a purpose authorized by the laws of this State.

(d) Use the proceeds of any tax imposed pursuant to this section on the revenues from the rental of transient lodging:

(1) To pay the principal, interest or any other indebtedness on any general or special obligations issued by the city pursuant to the laws of this State;

(2) For the expense of operating or maintaining, or both, any facilities of the city; and

(3) For any other purpose for which other money of the city may be used.

2. The city council or other governing body of an incorporated city shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.

3. The proceeds of any tax imposed pursuant to this section that are pledged for the repayment of general obligations may be treated as "pledged revenues" for the purposes of NRS 350.020.

4. The city council or other governing body of an incorporated city shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. No license to engage in any type of business may be granted unless the applicant for the license signs an affidavit affirming that the business has complied with the provisions of NRS 360.780. The city licensing agency shall provide upon request an application for a business license pursuant to NRS 360.780. As used in this subsection, "professional" means a person who:

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his profession for any type of compensation as an employee.

5. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:

(a) The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

(b) Another regulatory agency of the State has issued or will issue a license required for this activity.

6. Any license tax levied under the provisions of this section constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien has the same priority as a lien for general taxes. The lien must be enforced:

(a) By recording in the office of the county recorder, within 6 months following the date on which the tax became delinquent or was otherwise determined to be due and owing, a notice of the tax lien containing the following:

(1) The amount of tax due and the appropriate year;

(2) The name of the record owner of the property;

(3) A description of the property sufficient for identification; and

(4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and

(b) By an action for foreclosure against such property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.

7. The city council or other governing body of each incorporated city may delegate the power and authority to enforce such liens to the county fair and recreation board. If the authority is so delegated, the governing body shall revoke or suspend the license of a business upon certification by the board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 268.0966 ~~and~~ and section 6 of this act, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the

payment of those license taxes or as the result of any audit or examination of the books of the city by any authorized employee of a county fair and recreation board for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, official or employee of the county fair and recreation board or the city imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation for the exchange of information concerning taxpayers.

8. The powers conferred by this section are in addition and supplemental to, and not in substitution for, and the limitations imposed by this section do not affect the powers conferred by, any other law. No part of this section repeals or affects any other law or any part thereof, it being intended that this section provide a separate method of accomplishing its objectives, and not an exclusive one.

Sec. 61. NRS 268.490 is hereby amended to read as follows:

268.490 The municipality shall cause to be kept proper records of all license taxes which become due or which are collected, or both, including, without limiting the generality of the foregoing, records of delinquent taxes, interest thereon and penalties therefrom, which records, except as otherwise provided in section 6 of this act, shall be deemed confidential and shall not be revealed in whole or in part to anyone except in the necessary administration of NRS 268.460 to 268.510, inclusive, or as otherwise provided by law.

Sec. 62. NRS 268.910 is hereby amended to read as follows:

268.910 1. An organization for economic development formed by one or more cities shall, at the request of a client, keep confidential any record or other document in its possession concerning the initial contact with and research and planning for that client. If such a request is made, the executive head of the organization shall attach to the file containing the record or document a certificate signed by him stating that a request for confidentiality was made by the client and showing the date of the request.

2. ~~Records~~ Except as otherwise provided in section 6 of this act, records and documents that are confidential pursuant to subsection 1 remain confidential until the client:

(a) Initiates any process regarding the location of his business in a city that formed the organization for economic development which is within the jurisdiction of a governmental entity other than the organization for economic development; or

(b) Decides to locate his business in a city that formed the organization for economic development.

Sec. 63. NRS 284.4068 is hereby amended to read as follows:

284.4068 ~~[[The]]~~ Except as otherwise provided in section 6 of this act, the results of a screening test taken pursuant to NRS 284.4061 to 284.407, inclusive, are confidential and:

1. Are not admissible in a criminal proceeding against the person tested;
2. Must be securely maintained by the appointing authority or his designated representative separately from other files concerning personnel; and
3. Must not be disclosed to any person, except:
 - (a) Upon the written consent of the person tested;
 - (b) As required by medical personnel for the diagnosis or treatment of the person tested, if he is physically unable to give his consent to the disclosure;
 - (c) As required pursuant to a properly issued subpoena;
 - (d) When relevant in a formal dispute between the appointing authority and the person tested; or
 - (e) As required for the administration of a plan of benefits for employees.

Sec. 64. NRS 289.025 is hereby amended to read as follows:

289.025 1. Except as otherwise provided in subsection 2 ~~[[1]]~~ and section 6 of this act, the home address and any photograph of a peace officer in the possession of a law enforcement agency are not public information and are confidential.

2. The home address and photograph of a peace officer may be released:
 - (a) If the peace officer authorizes the release; or
 - (b) If the peace officer has been arrested.

Sec. 65. NRS 293.503 is hereby amended to read as follows:

293.503 1. The county clerk of each county where a registrar of voters has not been appointed pursuant to NRS 244.164:

- (a) Is ex officio county registrar and registrar for all precincts within the county.
- (b) Shall have the custody of all books, documents and papers pertaining to registration provided for in this chapter.

2. All books, documents and papers pertaining to registration are official records of the office of the county clerk.

3. The county clerk shall maintain records of any program or activity that is conducted within the county to ensure the accuracy and currency of the registrar of voters' register for not less than 2 years after creation. The records must include the names and addresses of any person to whom a notice is mailed pursuant to NRS 293.5235, 293.530, or 293.535 and whether the person responded to the notice.

4. Any program or activity that is conducted within the county for the purpose of removing the name of each person who is ineligible to vote in the county from the registrar of voters' register must be complete not later than 90 days before the next primary or general election.

5. Except as otherwise provided by subsection 6, all records maintained by the county clerk pursuant to subsection 3 must be available for public inspection.

6. ~~[Any]~~ Except as otherwise provided in section 6 of this act, any information relating to where a person registers to vote must remain confidential and is not available for public inspection. Such information may only be used by an election officer for purposes related to voter registration.

Sec. 66. NRS 332.061 is hereby amended to read as follows:

332.061 1. Except as otherwise provided in this subsection ~~[1]~~ and section 6 of this act, proprietary information does not constitute public information and is confidential. A person shall not disclose proprietary information unless:

(a) The disclosure is made for the purpose of a civil, administrative or criminal investigation or proceeding; and

(b) The person receiving the information represents in writing that protections exist under applicable law to preserve the integrity, confidentiality and security of the information.

2. A bid which contains a provision that requires negotiation or evaluation by the governing body or an evaluator may not be disclosed until the bid is recommended for the award of a contract.

Sec. 67. NRS 333.333 is hereby amended to read as follows:

333.333 1. Except as otherwise provided in subsection 2 ~~[1]~~ and section 6 of this act, proprietary information regarding a trade secret does not constitute public information and is confidential.

2. A person shall not disclose proprietary information regarding a trade secret unless the disclosure is made for the purpose of a civil, administrative or criminal investigation or proceeding, and the person receiving the information represents in writing that protections exist under applicable law to preserve the integrity, confidentiality and security of the information.

Sec. 68. NRS 333.335 is hereby amended to read as follows:

333.335 1. Each proposal must be evaluated by:

(a) The chief of the using agency, or a committee appointed by the chief of the using agency in accordance with the regulations adopted pursuant to NRS 333.135, if the proposal is for a using agency; or

(b) The Chief of the Purchasing Division, or a committee appointed by the Chief in accordance with the regulations adopted pursuant to NRS 333.135, if he is responsible for administering the proposal.

2. A committee appointed pursuant to subsection 1 must consist of not less than two members. A majority of the members of the committee must be state officers or employees. The committee may include persons who are not state officers or employees and possess expert knowledge or special expertise that the chief of the using agency or the Chief of the Purchasing Division determines is necessary to evaluate a proposal. The members of the committee are not entitled to compensation for their service on the committee, except that members of the committee who are state officers or employees are entitled to receive their salaries as state officers and employees. No member of the committee may have a financial interest in a proposal.

3. In making an award, the chief of the using agency, the Chief of the Purchasing Division or each member of the committee, if a committee is established, shall consider and assign a score for each of the following factors for determining whether the proposal is in the best interests of the State of Nevada:

- (a) The experience and financial stability of the person submitting the proposal;
- (b) Whether the proposal complies with the requirements of the request for proposals as prescribed in NRS 333.311;
- (c) The price of the proposal, including the imposition of an inverse preference described in NRS 333.336, if applicable; and
- (d) Any other factor disclosed in the request for proposals.

4. The chief of the using agency, the Chief of the Purchasing Division or the committee, if a committee is established, shall determine the relative weight of each factor set forth in subsection 3 before a request for proposals is advertised. The weight of each factor must not be disclosed before the date proposals are required to be submitted.

5. The chief of the using agency, the Chief of the Purchasing Division or the committee, if a committee is established, shall award the contract based on the best interests of the State, as determined by the total scores assigned pursuant to subsection 3, and is not required to accept the lowest-priced proposal.

6. ~~Each~~ Except as otherwise provided in section 6 of this act, each proposal evaluated pursuant to the provisions of this section is confidential and may not be disclosed until the contract is awarded.

Sec. 69. NRS 338.1379 is hereby amended to read as follows:

338.1379 1. Except as otherwise provided in NRS 338.1382, a contractor who wishes to qualify as a bidder on a contract for a public work must submit an application to the State Public Works Board or the local government.

2. Upon receipt of an application pursuant to subsection 1, the State Public Works Board or the local government shall:

- (a) Investigate the applicant to determine whether he is qualified to bid on a contract; and
- (b) After conducting the investigation, determine whether the applicant is qualified to bid on a contract. The determination must be made within 45 days after receipt of the application.

3. The State Public Works Board or the local government shall notify each applicant in writing of its determination. If an application is denied, the notice must set forth the reasons for the denial and inform the applicant of his right to a hearing pursuant to NRS 338.1381.

4. The State Public Works Board or the local government may determine an applicant is qualified to bid:

- (a) On a specific project; or

(b) On more than one project over a period of time to be determined by the State Public Works Board or the local government.

5. The State Public Works Board shall not use any criteria other than criteria adopted by regulation pursuant to NRS 338.1375 in determining whether to approve or deny an application.

6. The local government shall not use any criteria other than the criteria described in NRS 338.1377 in determining whether to approve or deny an application.

7. ~~[Financial]~~ Except as otherwise provided in section 6 of this act, financial information and other data pertaining to the net worth of an applicant which is gathered by or provided to the State Public Works Board or a local government to determine the financial ability of an applicant to perform a contract is confidential and not open to public inspection.

Sec. 70. NRS 349.775 is hereby amended to read as follows:

349.775 ~~[Any]~~ Except as otherwise provided in section 6 of this act, or unless the exporter consents to its disclosure, any information submitted to or compiled by the Director regarding the identity, background, finances, marketing plans, trade secrets or any other commercially sensitive affairs of the exporter is confidential. ~~[, unless the exporter consents to its disclosure.]~~

Sec. 71. NRS 353A.100 is hereby amended to read as follows:

353A.100 1. The Chief shall keep or cause to be kept a complete file of copies of all reports of audits, examinations, investigations and all other reports or releases issued by him.

2. All working papers from an audit are confidential and may be destroyed by the Chief 5 years after the report is issued, except that the Chief:

(a) Shall release such working papers when subpoenaed by a court of competent jurisdiction ~~[,]~~ or when required to do so pursuant to section 6 of this act;

(b) Shall make such working papers available to the Legislative Auditor upon his request; and

(c) May make such working papers available for inspection by an authorized representative of any other governmental entity for a matter officially before him.

Sec. 72. NRS 360.795 is hereby amended to read as follows:

360.795 1. Except as otherwise provided in this section and NRS 360.250 ~~[,]~~ and section 6 of this act, the records and files of the Department concerning the administration of NRS 360.760 to 360.798, inclusive, are confidential and privileged. The Department, and any employee of the Department engaged in the administration of NRS 360.760 to 360.798, inclusive, or charged with the custody of any such records or files, shall not disclose any information obtained from those records or files. Neither the Department nor any employee of the Department may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Department concerning the administration of NRS 360.760 to 360.798, inclusive, are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a person in any action or proceeding pursuant to the provisions of this chapter if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a person or his authorized representative of a copy of any document filed by the person pursuant to NRS 360.760 to 360.798, inclusive.

(c) Publication of statistics so classified as to prevent the identification of a particular business or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to the Governor or his agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or enforcement of laws relating to workers' compensation, unemployment compensation, public assistance, taxation, labor or gaming.

(f) Exchanges of information pursuant to subsection 3.

(g) Disclosure of information concerning whether or not a person conducting a business in this State has a state business license.

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

4. The Executive Director shall periodically, as he deems appropriate, but not less often than annually, transmit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry a list of the businesses of which he has a record. The list must include the mailing address of the business as reported to the Department.

Sec. 73. NRS 361.044 is hereby amended to read as follows:

361.044 Except as otherwise provided in NRS 360.250 and section 6 of this act, and except for information required to be transmitted to the Department, each county assessor shall, at the request of a taxpayer, keep any proprietary information concerning the taxpayer received pursuant to this chapter confidential.

Sec. 74. NRS 363A.110 is hereby amended to read as follows:

363A.110 1. Except as otherwise provided in this section and NRS 360.250 ~~and~~ and section 6 of this act, the records and files of the Department concerning the administration of this chapter are confidential and privileged. The Department, and any employee engaged in the administration of this chapter or charged with the custody of any such records or files, shall

not disclose any information obtained from the Department's records or files or from any examination, investigation or hearing authorized by the provisions of this chapter. Neither the Department nor any employee of the Department may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Department concerning the administration of this chapter are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a taxpayer in any action or proceeding pursuant to the provisions of this chapter if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a taxpayer or his authorized representative of a copy of any return or other document filed by the taxpayer pursuant to this chapter.

(c) Publication of statistics so classified as to prevent the identification of a particular person or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to the Governor or his agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or enforcement of laws relating to taxation.

(f) Exchanges of information pursuant to subsection 3.

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

Sec. 75. NRS 363B.100 is hereby amended to read as follows:

363B.100 1. Except as otherwise provided in this section and NRS 360.250 ~~to~~ and section 6 of this act, the records and files of the Department concerning the administration of this chapter are confidential and privileged. The Department, and any employee engaged in the administration of this chapter or charged with the custody of any such records or files, shall not disclose any information obtained from the Department's records or files or from any examination, investigation or hearing authorized by the provisions of this chapter. Neither the Department nor any employee of the Department may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Department concerning the administration of this chapter are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a taxpayer in any action or proceeding pursuant to the provisions of this chapter if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a taxpayer or his authorized representative of a copy of any return or other document filed by the taxpayer pursuant to this chapter.

(c) Publication of statistics so classified as to prevent the identification of a particular person or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to the Governor or his agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or enforcement of laws relating to taxation.

(f) Exchanges of information pursuant to subsection 3.

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

Sec. 76. NRS 366.160 is hereby amended to read as follows:

366.160 1. All records of mileage operated, origin and destination points within this State, equipment operated in this State, gallons or cubic feet consumed, and tax paid must at all reasonable times be open to the public.

2. All supporting schedules, invoices and other pertinent papers relative to the business affairs and operations of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter or special fuel user, and any information obtained by an investigation of the records and equipment of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter or special fuel user, shall be deemed confidential and must not be revealed to any person except as necessary to administer this chapter or as otherwise provided by section 6 of this act or by any other law.

Sec. 77. NRS 368A.180 is hereby amended to read as follows:

368A.180 1. Except as otherwise provided in this section and NRS 360.250 ~~and~~ and section 6 of this act, the records and files of the Board and the Department concerning the administration of this chapter are confidential and privileged. The Board, the Department and any employee of the Board or the Department engaged in the administration of this chapter or charged with the custody of any such records or files shall not disclose any information obtained from the records or files of the Board or the Department or from any examination, investigation or hearing authorized by the provisions of this chapter. The Board, the Department and any employee of

the Board or the Department may not be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Board and the Department concerning the administration of this chapter are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Board or the Department and production of records, files and information on behalf of the Board or the Department or a taxpayer in any action or proceeding pursuant to the provisions of this chapter, if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a taxpayer or his authorized representative of a copy of any report or other document filed by the taxpayer pursuant to this chapter.

(c) Publication of statistics so classified as to prevent the identification of a particular person or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to the Governor or his agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Board or the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or enforcement of laws relating to taxation.

Sec. 78. NRS 372.750 is hereby amended to read as follows:

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

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

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

4. Upon written request made by a public officer of a local government, the Executive Director shall furnish from the records of the Department, the name and address of the owner of any seller or retailer who must file a return with the Department. The request must set forth the social security number of the owner of the seller or retailer about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. ~~[The]~~ Except as otherwise provided in section 6 of this act, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

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

6. Relevant information may be disclosed as evidence in an appeal by the taxpayer from a determination of tax due.

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

Sec. 79. NRS 372A.080 is hereby amended to read as follows:

372A.080 1. ~~[All]~~ Except as otherwise provided in section 6 of this act, all information which is submitted to the Department by or on behalf of a dealer in controlled substances pursuant to this chapter and all records of the Department which contain the name, address or any other identifying information concerning a dealer are confidential.

2. No criminal prosecution may be initiated on the basis of:

- (a) Information which was submitted to the Department; or
- (b) Evidence derived from information submitted to the Department, pursuant to this chapter or any regulation adopted pursuant thereto.

3. No information described in paragraph (a) or (b) of subsection 2 is admissible in a criminal prosecution, unless the prosecution shows that the information:

- (a) Was independently discovered; or
- (b) Inevitably would have been discovered based on independent information.

4. This section does not prohibit the Department from publishing statistics that do not disclose the identity of a dealer or the contents of a particular return or report submitted to the Department by a dealer.

5. Any person who releases or reveals confidential information in violation of this section is guilty of a gross misdemeanor.

Sec. 80. NRS 374.755 is hereby amended to read as follows:

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

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

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

4. Upon written request made by a public officer of a local government, the Executive Director shall furnish from the records of the Department, the name and address of the owner of any seller or retailer who must file a return with the Department. The request must set forth the social security number of the owner of the seller or retailer about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. ~~(The)~~ Except as otherwise provided in section 6 of this act, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

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

6. Relevant information may be disclosed as evidence in an appeal by the taxpayer from a determination of tax due.

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

Sec. 81. NRS 375A.835 is hereby amended to read as follows:

375A.835 All information and records acquired by the Department or any of its employees pursuant to this chapter are confidential in nature, and except insofar as may be necessary for the enforcement of this chapter or as may be permitted by this chapter ~~for~~ or required by section 6 of this act, must not be disclosed.

Sec. 82. NRS 375B.450 is hereby amended to read as follows:

375B.450 All information and records acquired from the Internal Revenue Service of the United States Department of the Treasury by the Nevada Tax Commission, the Department or any of their employees pursuant to this chapter are confidential in nature and, except insofar as may be necessary for the enforcement of this chapter, as an employee of the Department has a need to know the information ~~for~~ or as may be required by section 6 of this act, must not be disclosed.

Sec. 83. NRS 378.300 is hereby amended to read as follows:

378.300 ~~Public~~ Except as otherwise provided in section 6 of this act, public records acquired by the Division which have been declared by law to be confidential must remain confidential for 30 years, or if the record relates to a natural person, until his death, whichever is later, unless another period has been fixed by specific statute.

Sec. 84. NRS 379.008 is hereby amended to read as follows:

379.008 1. ~~Any~~ Except as otherwise provided in section 6 of this act, an application to the State Library and Archives Administrator for certification and all documents in the file of the State Library and Archives Administrator relating to an application, including:

- (a) The applicant's health records;
 - (b) The applicant's fingerprints and any report from the Federal Bureau of Investigation;
 - (c) Transcripts of the applicant's record at colleges or other educational institutions;
 - (d) Correspondence concerning the application; and
 - (e) Other personal information concerning the applicant,
- ↪ are confidential.

2. It is unlawful to disclose or release the information in an application or a related document except pursuant to the written authorization of the applicant.

3. The State Library and Archives Administrator shall, upon request, make available the file of the applicant for inspection by the applicant during regular business hours.

Sec. 85. NRS 387.626 is hereby amended to read as follows:

387.626 1. A consultant selected to perform a review of a school district shall:

(a) Consider the results and recommendations of other audits, if any, conducted by or on behalf of the school district in the immediately preceding 6 years;

(b) Hold at least one public meeting in the county in which the school district is located to explain the process of the review and to obtain information from school administrators, teachers, parents and guardians, pupils, members of the business community and other residents of the school district concerning the operation and management of the school district; and

(c) Supervise and oversee his employees and other persons enlisted by the consultant to assist with the review.

2. The Department shall provide technical support and expertise to the consultant during the review to ensure that the objectives of the review and the requirements of NRS 387.602 to 387.644, inclusive, are met.

3. Upon the request of the consultant, the Department, the board of trustees of the school district, the superintendent of schools of the school district and the employees of the school district shall make available to the consultant all books, accounts, claims, reports, vouchers, records and other information, confidential or otherwise, necessary for the consultant to carry out his review.

4. The consultant shall:

(a) Maintain the confidentiality of all information, records and data obtained for the purpose of carrying out the provisions of NRS 387.602 to 387.644, inclusive;

(b) Use such information, records and data only for the purpose of carrying out the provisions of NRS 387.602 to 387.644, inclusive, and for no other purposes;

(c) Require his employees and other persons enlisted by the consultant to assist with the review to comply with the confidentiality requirements of this subsection; and

(d) Keep or cause to be kept a complete file of copies of all reports of reviews conducted pursuant to NRS 387.602 to 387.644, inclusive.

5. All working papers from a review conducted pursuant to NRS 387.602 to 387.644, inclusive, are confidential and may be destroyed by the consultant 8 years after the final written report of the review is issued, except that the consultant:

(a) Shall release such working papers when subpoenaed by a court ~~or~~ when required to do so pursuant to section 6 of this act;

(b) Shall make such working papers available to the Legislative Auditor upon his request; and

(c) May make such working papers available for inspection by an authorized representative of any other governmental entity for a matter officially before him.

Sec. 86. NRS 389.015 is hereby amended to read as follows:

389.015 1. The board of trustees of each school district shall administer examinations in all public schools of the school district. The governing body of a charter school shall administer the same examinations in the charter school. The examinations administered by the board of trustees and governing body must determine the achievement and proficiency of pupils in:

- (a) Reading;
- (b) Mathematics; and
- (c) Science.

2. The examinations required by subsection 1 must be:

- (a) Administered before the completion of grades 4, 7, 10 and 11.
- (b) Administered in each school district and each charter school at the same time during the spring semester. The time for the administration of the examinations must be prescribed by the State Board.

(c) Administered in each school in accordance with uniform procedures adopted by the State Board. The Department shall monitor the compliance of school districts and individual schools with the uniform procedures.

(d) Administered in each school in accordance with the plan adopted pursuant to NRS 389.616 by the Department and with the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in which the examinations are administered. The Department shall monitor the compliance of school districts and individual schools with:

- (1) The plan adopted by the Department; and
- (2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

(e) Scored by a single private entity that has contracted with the State Board to score the examinations. The private entity that scores the examinations shall report the results of the examinations in the form and by the date required by the Department.

3. Not more than 14 working days after the results of the examinations are reported to the Department by a private entity that scored the examinations, the Superintendent of Public Instruction shall certify that the results of the examinations have been transmitted to each school district and each charter school. Not more than 10 working days after a school district receives the results of the examinations, the superintendent of schools of each school district shall certify that the results of the examinations have been transmitted to each school within the school district. Except as otherwise provided in this subsection, not more than 15 working days after each school receives the results of the examinations, the principal of each school and the governing body of each charter school shall certify that the results for each pupil have been provided to the parent or legal guardian of the pupil:

(a) During a conference between the teacher of the pupil or administrator of the school and the parent or legal guardian of the pupil; or

(b) By mailing the results of the examinations to the last known address of the parent or legal guardian of the pupil.

➡ If a pupil fails the high school proficiency examination, the school shall notify the pupil and the parents or legal guardian of the pupil as soon as practicable but not later than 15 working days after the school receives the results of the examination.

4. If a pupil fails to demonstrate at least adequate achievement on the examination administered before the completion of grade 4, 7 or 10, he may be promoted to the next higher grade, but the results of his examination must be evaluated to determine what remedial study is appropriate. If such a pupil is enrolled at a school that has failed to make adequate yearly progress or in which less than 60 percent of the pupils enrolled in grade 4, 7 or 10 in the school who took the examinations administered pursuant to this section received an average score on those examinations that is at least equal to the 26th percentile of the national reference group of pupils to which the examinations were compared, the pupil must, in accordance with the requirements set forth in this subsection, complete remedial study that is determined to be appropriate for the pupil.

5. If a pupil fails to pass the proficiency examination administered before the completion of grade 11, he must not be graduated until he is able, through remedial study, to pass the proficiency examination, but he may be given a certificate of attendance, in place of a diploma, if he has reached the age of 17 years.

6. The State Board shall prescribe standard examinations of achievement and proficiency to be administered pursuant to subsection 1. The high school proficiency examination must include the subjects of reading, mathematics and science and, except for the writing portion prescribed pursuant to NRS 389.550, must be developed, printed and scored by a nationally recognized testing company in accordance with the process established by the testing company. The examinations on reading, mathematics and science prescribed for grades 4, 7 and 10 must be selected from examinations created by private entities and administered to a national reference group, and must allow for a comparison of the achievement and proficiency of pupils in grades 4, 7 and 10 in this State to that of a national reference group of pupils in grades 4, 7 and 10. The questions contained in the examinations and the approved answers used for grading them are confidential, and disclosure is unlawful except:

(a) To the extent necessary for administering and evaluating the examinations.

(b) That a disclosure may be made to a:

(1) State officer who is a member of the Executive or Legislative Branch to the extent that it is necessary for the performance of his duties;

(2) Superintendent of schools of a school district to the extent that it is necessary for the performance of his duties;

(3) Director of curriculum of a school district to the extent that it is necessary for the performance of his duties; and

(4) Director of testing of a school district to the extent that it is necessary for the performance of his duties.

(c) That specific questions and answers may be disclosed if the Superintendent of Public Instruction determines that the content of the questions and answers is not being used in a current examination and making the content available to the public poses no threat to the security of the current examination process.

(d) As required pursuant to section 6 of this act.

Sec. 87. NRS 391.035 is hereby amended to read as follows:

391.035 1. ~~Any~~ *Except as otherwise provided in section 6 of this act,* an application to the Superintendent of Public Instruction for a license as a teacher or to perform other educational functions and all documents in the Department's file relating to the application, including:

(a) The applicant's health records;

(b) His fingerprints and any report from the Federal Bureau of Investigation or the Central Repository for Nevada Records of Criminal History;

(c) Transcripts of his record at colleges or other educational institutions;

(d) His scores on the examinations administered pursuant to the regulations adopted by the Commission;

(e) Any correspondence concerning the application; and

(f) Any other personal information,

↪ are confidential.

2. It is unlawful to disclose or release the information in an application or any related document except pursuant to paragraph (d) of subsection 6 of NRS 179A.075 or the applicant's written authorization.

3. The Department shall, upon request, make available the applicant's file for his inspection during regular business hours.

Sec. 88. NRS 392.652 is hereby amended to read as follows:

392.652 A plan developed pursuant to NRS 392.620 or updated pursuant to NRS 392.624, a deviation and any information submitted to a development committee pursuant to NRS 392.632, a deviation approved pursuant to NRS 392.636 and the plan developed pursuant to NRS 392.640 are confidential and, except as otherwise provided in NRS 392.600 to 392.656, inclusive, *and section 6 of this act* must not be disclosed to any person or government, governmental agency or political subdivision of a government.

Sec. 89. NRS 392.850 is hereby amended to read as follows:

392.850 1. The board of trustees of a county school district, or its designee, shall inform each employee of the district, including teachers, other licensed employees, drivers of school buses, instructional aides and office managers, who may have consistent contact with a pupil if that pupil has,

within the preceding 3 years, unlawfully caused or attempted to cause serious bodily injury to any person. The district shall provide this information based upon any written records that the district maintains or which it receives from a law enforcement agency or a court. The district need not initiate a request for such information from any source.

2. A school district and the members of its board of trustees are not liable for failure strictly to comply with this section if a good faith effort to comply is made.

3. ~~[Any]~~ Except as otherwise provided in section 6 of this act, any information received by an employee pursuant to this section is confidential and must not be further disseminated by the employee.

Sec. 90. NRS 394.1698 is hereby amended to read as follows:

394.1698 A plan developed pursuant to NRS 394.1687 or updated pursuant to NRS 394.1688, a deviation and any information submitted to a development committee pursuant to NRS 394.1691 and a deviation approved pursuant to NRS 394.1692 are confidential and, except as otherwise provided in NRS 392.640 and 394.168 to 394.1699, inclusive, and section 6 of this act, must not be disclosed to any person or government, governmental agency or political subdivision of a government.

Sec. 91. NRS 394.447 is hereby amended to read as follows:

394.447 Accreditation may be accepted as evidence of compliance with the minimum standards established by the Commission, or the Administrator may require further evidence and make further investigation as in his judgment or the judgment of the Commission are necessary. Accreditation may be accepted as evidence of compliance only as to the portion or program of an institution accredited by the agency if the institution as a whole is not accredited. Upon request by the Administrator, the institution shall submit copies of all written materials in its possession relating to its accreditation. ~~[The]~~ Except as otherwise provided in section 6 of this act, the Administrator shall keep the materials confidential.

Sec. 92. NRS 394.460 is hereby amended to read as follows:

394.460 1. Each person required to be licensed as a postsecondary educational institution by the Commission or each postsecondary educational institution requesting to add a new program or degree or to renew a license must apply to the Administrator, upon forms provided by him. The application must be accompanied by the required fees. The institution's curriculum and financial statement are confidential except as otherwise provided in section 6 of this act or unless, in the opinion of the Commission, they militate against the issuance of a license.

2. After review of the application, any other information required by the Administrator and the report of the panel of evaluators, and an investigation of the applicant if necessary, the Commission shall grant or deny a license or grant a provisional license for a term specified by the Commission. Before the expiration of a provisional license, the Administrator shall inspect the institution, or the Commission may require the appointment of a panel of

evaluators to inspect the institution, and recommend whether to revoke or continue the provisional license or to grant an unqualified license. The Commission may accept or reject the recommendation.

3. The license must state at least the following information:

- (a) The date of issuance, effective date and term of the license.
- (b) The correct name, address and owner of the institution.
- (c) The approved degrees or occupational subjects.
- (d) Any limitation considered necessary by the Commission.

4. The term for which a license is given must not exceed 2 years. The license must be posted in a conspicuous place.

5. The license must be issued to the owner or governing body of the institution and is nontransferable. If a change in ownership of the institution occurs, the owner to whom the license was issued shall inform the Administrator, and the new owner or governing body must, within 10 days after the change in ownership, apply for an approval of the change of ownership. If it fails to do so, the license terminates.

6. Within 10 days after a change of location or an addition of buildings or other facilities, the institution must file a notice of the change with the Administrator.

7. At least 60 days before the expiration of a license, the institution must complete and file with the Administrator an application for renewal of its license.

Sec. 93. NRS 394.465 is hereby amended to read as follows:

394.465 1. Except as otherwise provided in subsection 4, before a postsecondary educational institution employs or contracts with a person:

- (a) To occupy an instructional position;
- (b) To occupy an administrative or financial position, including a position as school director, personnel officer, counselor, admission representative, solicitor, canvasser, surveyor, financial aid officer or any similar position; or
- (c) To act as an agent for the institution,

→ the applicant must submit to the Administrator completed fingerprint cards and a form authorizing an investigation of the applicant's background and the submission of a complete set of his fingerprints to the Central Repository for Nevada Records of Criminal History for its report and for submission to the Federal Bureau of Investigation for its report. The fingerprint cards and authorization form submitted must be those which are provided to the applicant by the Administrator. The applicant's fingerprints must be taken by an agency of law enforcement.

2. ~~The~~ Except as otherwise provided in section 6 of this act, the Administrator shall keep the results of the investigation confidential.

3. The applicant shall pay the cost of the investigation.

4. An applicant is not required to satisfy the requirements of subsection 1 if he:

- (a) Is licensed by the Superintendent of Public Instruction;
- (b) Is an employee of the United States Department of Defense;

(c) Is a member of the faculty of an accredited postsecondary educational institution in another state who is domiciled in a state other than Nevada and is present in Nevada for a temporary period to teach at a branch of that accredited institution; or

(d) Has satisfied the requirements of subsection 1 within the immediately preceding 5 years.

Sec. 94. NRS 396.525 is hereby amended to read as follows:

396.525 1. Except as otherwise provided in subsection 2, ~~and~~ section 6 of this act, the records of the genetics program concerning the clients and families of clients are confidential.

2. The genetics program may share information in its possession with the University of Nevada School of Medicine and the Health Division of the Department of Health and Human Services, if the confidentiality of the information is otherwise maintained in accordance with the terms and conditions required by law.

Sec. 95. NRS 398.403 is hereby amended to read as follows:

398.403 1. Except as otherwise provided in subsections 2 and 3, ~~and~~ section 6 of this act, the following information and documents do not constitute public information and are confidential:

(a) Information or documents obtained by the Secretary of State in connection with an investigation conducted pursuant to NRS 398.600 concerning possible violations of NRS 398.400 to 398.620, inclusive; and

(b) Information or documents filed with the Secretary of State in connection with an application for registration filed pursuant to NRS 398.400 to 398.620, inclusive, which constitute commercial or financial information, or business practices, of a person for which that person is entitled to and has asserted a claim of privilege or confidentiality authorized by law.

2. The Secretary of State may submit any information or evidence obtained in connection with an investigation conducted pursuant to NRS 398.600 to the Attorney General or appropriate district attorney for the purpose of prosecuting a criminal action pursuant to NRS 398.400 to 398.620, inclusive.

3. The Secretary of State may disclose any information obtained in connection with an investigation conducted pursuant to NRS 398.600 to any other governmental agency if the disclosure is provided for the purpose of a civil, administrative or criminal investigation or proceeding and the receiving agency represents in writing that, under applicable law, protections exist to preserve the integrity, confidentiality and security of the information.

4. The provisions of NRS 398.400 to 398.620, inclusive, do not create any privilege and do not diminish any privilege existing pursuant to common law, a specific statute or regulation, or otherwise.

Sec. 96. NRS 416.070 is hereby amended to read as follows:

416.070 1. ~~Any~~ Except as otherwise provided in section 6 of this act, any information furnished under NRS 416.040 and designated as confidential by the person providing the information shall be maintained as confidential

by the Governor and any other person who obtains information which he knows to be confidential under this section.

2. The Governor shall not make known in any manner any particulars of the information to any person other than those he designates in writing as having a need to know such information.

3. No subpoena or other judicial order may be issued compelling the Governor or any other person to divulge or make known the confidential information, except when the information is relevant to proceedings under subsection 6.

4. Nothing in this section prohibits use of confidential information to prepare statistics or other general data for publication in such a manner that the identity of particular persons or business establishments is protected.

5. Any person or business establishment who is served with a subpoena to give oral testimony or to produce any book, paper, correspondence, memorandum, account, agreements or other document or record pursuant to this chapter may apply to any district court for a protective order as provided by Rule 26 of the Nevada Rules of Civil Procedure.

6. In addition to any other penalties provided by law, a person who willfully discloses confidential information in violation of this section is subject to removal from office or immediate dismissal from public employment.

Sec. 97. NRS 422.305 is hereby amended to read as follows:

422.305 1. Except as otherwise provided in subsection 2 and ~~in~~ NRS 228.410 and 422.2374, and section 6 of this act, any information obtained by the Division in an investigation of a provider of services under the State Plan for Medicaid is confidential.

2. The information presented as evidence at a hearing:

(a) To enforce the provisions of NRS 422.450 to 422.590, inclusive; or
(b) To review an action by the Division against a provider of services under the State Plan for Medicaid,

➔ is not confidential, except for the identity of any recipient of the assistance.

Sec. 98. NRS 425.3828 is hereby amended to read as follows:

425.3828 1. If a written response setting forth objections and requesting a hearing is received by the office issuing the notice and finding of financial responsibility within the specified period, a hearing must be held pursuant to NRS 425.3832 and notice of the hearing must be sent to the parent by regular mail.

2. If a written response and request for hearing is not received by the office issuing the notice and finding of financial responsibility within the specified period, the master may enter a recommendation for the support of a dependent child in accordance with the notice and shall:

(a) Include in that recommendation:

(1) If the paternity of the dependent child is established by the recommendation, a declaration of that fact.

(2) The amount of monthly support to be paid, including directions concerning the manner of payment.

(3) The amount of arrearages owed.

(4) Whether coverage for health care must be provided for the dependent child.

(5) Any requirements to be imposed pursuant to subparagraph (13) of paragraph (b) of subsection 2 of NRS 425.382, regarding a plan for the payment of support by the parent or the participation of the parent in work activities.

(6) The names of the parents or legal guardians of the child.

(7) The name of the person to whom, and the name and date of birth of the dependent child for whom support is to be paid.

(8) A statement that the property of the parent is subject to an attachment or other procedure for collection, including, but not limited to, withholding of wages, garnishment, liens and execution on liens.

(9) A statement that objections to the recommendation may be filed with the district court and served upon the other party within 10 days after receipt of the recommendation.

(b) Ensure that the social security numbers of the parents or legal guardians of the child and the person to whom support is to be paid are:

(1) Provided to the enforcing authority.

(2) Placed in the records relating to the matter and, except as otherwise required to carry out ~~the~~ the provisions of section 6 of this act or any other specific statute, maintained in a confidential manner.

3. The parent must be sent a copy of the recommendation for the support of a dependent child by regular mail addressed to the last known address of the parent, or if applicable, the last known address of the attorney for the parent.

4. The recommendation for the support of a dependent child is final upon approval by the district court pursuant to NRS 425.3844. The Chief may take action to enforce and collect upon the order of the court approving the recommendation, including arrearages, from the date of the approval of the recommendation.

5. If a written response and request for hearing is not received by the office issuing the notice and finding of financial responsibility within the specified period, and the master enters a recommendation for the support of a dependent child, the court may grant relief from the recommendation on the grounds set forth in paragraph (b) of Rule 60 of the Nevada Rules of Civil Procedure.

Sec. 99. NRS 425.3844 is hereby amended to read as follows:

425.3844 1. A recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, including a recommendation establishing paternity, must be furnished to each party or his attorney at the conclusion of the proceedings or as soon thereafter as possible.

2. Within 10 days after receipt of the recommendation, any party may file with the district court and serve upon the other parties a notice of objection to the recommendation. The notice must include:

- (a) A copy of the master's recommendation;
- (b) The results of any blood tests or tests for genetic identification examined by the master;
- (c) A concise statement setting forth the reasons that the party disagrees with the master's recommendation, including any affirmative defenses that must be pleaded pursuant to the Nevada Rules of Civil Procedure;
- (d) A statement of the relief requested;
- (e) The notice and finding of financial responsibility if the Chief issued such a notice and finding; and
- (f) Any other relevant documents.

3. The district court shall:

- (a) If a notice of objection is not filed, accept the recommendation entered by the master, including a recommendation establishing paternity, unless clearly erroneous, and judgment may be entered thereon; or
- (b) If a notice of objection is filed within the 10-day period, review the matter pursuant to NRS 425.3834.

4. A party who receives a notice of objection pursuant to subsection 2 is not required to file an answer to that notice. The district court shall review each objection contained in the notice.

5. If a notice of objection includes an objection to a recommendation establishing paternity, the enforcement of any obligation for the support of the child recommended by the master must, upon the filing and service of the notice, be stayed until the district court rules upon the determination of paternity. The obligation for the support of the child continues to accrue during the consideration of the determination of paternity and must be collected as arrears after the completion of the trial if the court approves the recommendation of the master.

6. If a recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, including a recommendation establishing paternity, modifies or adjusts a previous order for support issued by any district court in this state, that district court shall review the recommendation and approve or reject the recommendation issued by the master.

7. Upon approval by the district court of a recommendation entered by a master pursuant to NRS 425.382 to 425.3852, inclusive, including a recommendation establishing paternity, a copy of the recommendation, with the approval of the court endorsed thereon, must be filed:

- (a) In the office of the clerk of the district court;
- (b) If the order of the district court approving the recommendation of the master modifies or adjusts a previous order issued by any district court in this state, with the original order in the office of the clerk of that district court; and

(c) With any court that conducts a proceeding related thereto pursuant to the provisions of chapter 130 of NRS.

8. A district court that approves a recommendation pursuant to this section shall ensure that, before the recommendation is filed pursuant to subsection 7, the social security numbers of the parents or legal guardians of the child are:

(a) Provided to the enforcing authority.

(b) Placed in the records relating to the matter and, except as otherwise required to carry out ~~the~~ the provisions of section 6 of this act or any other specific statute, maintained in a confidential manner.

9. Upon the approval and filing of the recommendation as provided in subsection 7, the recommendation has the force, effect and attributes of an order or decree of the district court, including, but not limited to, enforcement by supplementary proceedings, contempt of court proceedings, writs of execution, liens and writs of garnishment.

Sec. 100. NRS 425.3855 is hereby amended to read as follows:

425.3855 A district court that enters an order pursuant to NRS 425.382 to 425.3852, inclusive, or an order approving a recommendation for the support of a dependent child made by a master shall ensure that the social security numbers of the parents or legal guardians of the child are:

1. Provided to the enforcing authority.

2. Placed in the records relating to the matter and, except as otherwise required to carry out ~~the~~ the provisions of section 6 of this act or any other specific statute, maintained in a confidential manner.

Sec. 101. NRS 427A.1236 is hereby amended to read as follows:

427A.1236 All records in the possession of the Specialist for the Rights of Elderly Persons relating to his counseling or representation of an elderly person are confidential and must not be released to any other person except upon order of a court of competent jurisdiction ~~or~~ or pursuant to the provisions of section 6 of this act.

Sec. 102. NRS 432B.280 is hereby amended to read as follows:

432B.280 1. ~~Reports~~ Except as otherwise provided in section 6 of this act, 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. 103. NRS 432B.407 is hereby amended to read as follows:

432B.407 1. A multidisciplinary team to review the death of a child is entitled to access to:

(a) All investigative information of law enforcement agencies regarding the death;

(b) Any autopsy and coroner's investigative records relating to the death;

(c) Any medical or mental health records of the child; and

(d) Any records of social and rehabilitative services or of any other social service agency which has provided services to the child or the child's family.

2. Each organization represented on a multidisciplinary team to review the death of a child shall share with other members of the team information in its possession concerning the child who is the subject of the review, any siblings of the child, any person who was responsible for the welfare of the child and any other information deemed by the organization to be pertinent to the review.

3. A multidisciplinary team to review the death of a child may petition the district court for the issuance of, and the district court may issue, a subpoena to compel the production of any books, records or papers relevant to the cause of any death being investigated by the team. ~~[Any]~~ Except as otherwise provided in section 6 of this act, any books, records or papers received by the team pursuant to the subpoena shall be deemed confidential and privileged and not subject to disclosure.

4. Information acquired by, and the records of, a multidisciplinary team to review the death of a child are confidential, must not be disclosed, and are not subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding.

Sec. 104. NRS 433.534 is hereby amended to read as follows:

433.534 1. The rights of a client enumerated in this chapter must not be denied except to protect the client's health and safety or to protect the health and safety of others, or both. Any denial of those rights in any facility must be entered in the client's record of treatment, and notice of the denial must be forwarded to the administrative officer of the facility. Failure to report denial of rights by an employee may be grounds for dismissal.

2. If the administrative officer of a facility receives notice of a denial of rights as provided in subsection 1, he shall cause a full report to be prepared which must set forth in detail the factual circumstances surrounding the denial. ~~[Such]~~ Except as otherwise provided in section 6 of this act, such a report is confidential and must not be disclosed. A copy of the report must be sent to the Commission.

3. The Commission:

(a) Shall receive reports of and may investigate apparent violations of the rights guaranteed by this chapter;

(b) May act to resolve disputes relating to apparent violations;

(c) May act on behalf of clients to obtain remedies for any apparent violations; and

(d) Shall otherwise endeavor to safeguard the rights guaranteed by this chapter.

4. Pursuant to NRS 241.030, the Commission may close any portion of a meeting in which it considers the character, alleged misconduct or professional competence of a person in relation to:

- (a) The denial of the rights of a client; or
- (b) The care and treatment of a client.

➔ The provisions of this subsection do not require a meeting of the Commission to be closed to the public.

Sec. 105. NRS 439.270 is hereby amended to read as follows:

439.270 1. The State Board of Health shall define epilepsy for the purposes of the reports hereinafter referred to in this section.

2. All physicians shall report immediately to the Health Division, in writing, the name, age and address of every person diagnosed as a case of epilepsy.

3. The Health Division shall report, in writing, to the Department of Motor Vehicles the name, age and address of every person reported to it as a case of epilepsy.

4. ~~[The]~~ *Except as otherwise provided in section 6 of this act, the* reports are for the information of the Department of Motor Vehicles and must be kept confidential and used solely to determine the eligibility of any person to operate a vehicle on the streets and highways of this State.

5. A violation of this section is a misdemeanor.

Sec. 106. NRS 439.840 is hereby amended to read as follows:

439.840 1. The Health Division shall, to the extent of legislative appropriation and authorization:

- (a) Collect and maintain reports received pursuant to NRS 439.835; and
- (b) Ensure that such reports, and any additional documents created from such reports, are protected adequately from fire, theft, loss, destruction and other hazards and from unauthorized access.

2. ~~[Reports]~~ *Except as otherwise provided in section 6 of this act, reports* received pursuant to NRS 439.835 are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

Sec. 107. NRS 439B.420 is hereby amended to read as follows:

439B.420 1. A hospital or related entity shall not establish a rental agreement with a physician or entity that employs physicians that requires any portion of his medical practice to be referred to the hospital or related entity.

2. The rent required of a physician or entity which employs physicians by a hospital or related entity must not be less than 75 percent of the rent for comparable office space leased to another physician or other lessee in the building, or in a comparable building owned by the hospital or entity.

3. A hospital or related entity shall not pay any portion of the rent of a physician or entity which employs physicians within facilities not owned or operated by the hospital or related entity, unless the resulting rent is no lower than the highest rent for which the hospital or related entity rents comparable office space to other physicians.

4. A health facility shall not offer any provider of medical care any financial inducement, excluding rental agreements subject to the provisions of subsection 2 or 3, whether in the form of immediate, delayed, direct or indirect payment to induce the referral of a patient or group of patients to the health facility. This subsection does not prohibit bona fide gifts under \$100, or reasonable promotional food or entertainment.

5. The provisions of subsections 1 to 4, inclusive, do not apply to hospitals in a county whose population is less than 50,000.

6. A hospital, if acting as a billing agent for a medical practitioner performing services in the hospital, shall not add any charges to the practitioner's bill for services other than a charge related to the cost of processing the billing.

7. A hospital or related entity shall not offer any financial inducement to an officer, employee or agent of an insurer, a person acting as an insurer or self-insurer or a related entity. A person shall not accept such offers. This subsection does not prohibit bona fide gifts of under \$100 in value, or reasonable promotional food or entertainment.

8. A hospital or related entity shall not sell goods or services to a physician unless the costs for such goods and services are at least equal to the cost for which the hospital or related entity pays for the goods and services.

9. Except as otherwise provided in this subsection, a practitioner or health facility shall not refer a patient to a health facility or service in which the referring party has a financial interest unless the referring party first discloses the interest to the patient. This subsection does not apply to practitioners subject to the provisions of NRS 439B.425.

10. The Director may, at reasonable intervals, require a hospital or related entity or other party to an agreement to submit copies of operative contracts subject to the provisions of this section after notification by registered mail. The contracts must be submitted within 30 days after receipt of the notice. Contracts submitted pursuant to this subsection are confidential, except pursuant to the provisions of section 6 of this act and in cases in which an action is brought pursuant to subsection 11.

11. A person who willfully violates any provision of this section is liable to the State of Nevada for:

(a) A civil penalty in an amount of not more than \$5,000 per occurrence, or 100 percent of the value of the illegal transaction, whichever is greater.

(b) Any reasonable expenses incurred by the State in enforcing this section.

➡ Any money recovered pursuant to this subsection as a civil penalty must be deposited in a separate account in the State General Fund and used for projects intended to benefit the residents of this State with regard to health care. Money in the account may only be withdrawn by act of the Legislature.

12. As used in this section, "related entity" means an affiliated person or subsidiary as those terms are defined in NRS 439B.430.

Sec. 108. NRS 441A.220 is hereby amended to read as follows:

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

1. For statistical purposes, provided that the identity of the person is not discernible from the information disclosed.
2. In a prosecution for a violation of this chapter.
3. In a proceeding for an injunction brought pursuant to this chapter.
4. In reporting the actual or suspected abuse or neglect of a child or elderly person.
5. To any person who has a medical need to know the information for his own protection or for the well-being of a patient or dependent person, as determined by the health authority in accordance with regulations of the Board.
6. If the person who is the subject of the information consents in writing to the disclosure.
7. Pursuant to subsection 2 of NRS 441A.320 or NRS 629.069.
8. If the disclosure is made to the Department of Health and Human Services and the person about whom the disclosure is made has been diagnosed as having acquired immunodeficiency syndrome or an illness related to the human immunodeficiency virus and is a recipient of or an applicant for Medicaid.
9. To a firefighter, police officer or person providing emergency medical services if the Board has determined that the information relates to a communicable disease significantly related to that occupation. The information must be disclosed in the manner prescribed by the Board.
10. If the disclosure is authorized or required by section 6 of this act or another specific statute.

Sec. 109. NRS 442.395 is hereby amended to read as follows:

442.395 ~~HH~~ Except as otherwise provided in section 6 of this act, if a pregnant woman is referred to the Health Division by a provider of health care or other services for information relating to programs for the prevention and treatment of fetal alcohol syndrome, any report relating to the referral or other associated documentation is confidential and must not be used in any criminal prosecution of the woman.

Sec. 110. NRS 449.245 is hereby amended to read as follows:

449.245 1. No hospital licensed under the provisions of NRS 449.001 to 449.240, inclusive, may release from the hospital or otherwise surrender physical custody of any child under 6 months of age, whose living parent or guardian is known to the hospital, to any person other than a parent, guardian or relative by blood or marriage of that child, without a written authorization signed by a living parent, who must be the mother if unwed, or guardian

specifying the particular person or agency to whom the child may be released and the permanent address of that person or agency.

2. Upon the release or other surrender of physical custody of the child, the hospital shall require from the person to whom the child is released such reasonable proof of identity as the hospital may deem necessary for compliance with the provisions of this section. The hospital shall furnish a true copy of the written authorization to the Division of Child and Family Services of the Department of Health and Human Services before the release or other surrender by it of physical custody of the child. The copy must be furnished to the Division immediately upon receipt by the hospital.

3. Any person to whom any such child is released who thereafter surrenders physical custody of that child to any other person or agency shall, upon demand by the Division of Child and Family Services, disclose to the Division the name and permanent address of the person or agency to whom physical custody of the child was delivered.

4. ~~ALL~~ Except as otherwise provided in section 6 of this act, all information received by the Division of Child and Family Services pursuant to the provisions of this section is confidential and must be protected from disclosure in the same manner that information is protected under NRS 432.035.

5. Compliance with the provisions of this section is not a substitute for compliance with NRS 127.220 to 127.310, inclusive, governing placements for adoption and permanent free care.

6. A violation of any provision of this section is a misdemeanor.

Sec. 111. NRS 449.720 is hereby amended to read as follows:

449.720 Every patient of a medical facility, facility for the dependent or home for individual residential care has the right to:

1. Receive considerate and respectful care.
2. Refuse treatment to the extent permitted by law and to be informed of the consequences of that refusal.
3. Refuse to participate in any medical experiments conducted at the facility.
4. Retain his privacy concerning his program of medical care. Discussions of a patient's care, consultation with other persons concerning the patient, examinations or treatments, and all communications and records concerning the patient, except as otherwise provided in NRS 108.640, 442.300 to 442.330, inclusive, and 449.705, and chapter 629 of NRS ~~§~~ and section 6 of this act are confidential. The patient must consent to the presence of any person who is not directly involved with his care during any examination, consultation or treatment.
5. Have any reasonable request for services reasonably satisfied by the facility or home considering its ability to do so.
6. Receive continuous care from the facility or home. The patient must be informed:

(a) Of his appointments for treatment and the names of the persons available at the facility or home for those treatments; and

(b) By his physician or an authorized representative of the physician, of his need for continuing care.

Sec. 112. NRS 453.1545 is hereby amended to read as follows:

453.1545 1. The Board and the Division shall cooperatively develop a computerized program to track each prescription for a controlled substance listed in schedule II, III or IV that is filled by a pharmacy that is registered with the Board or that is dispensed by a practitioner who is registered with the Board. The program must:

(a) Be designed to provide information regarding:

(1) The inappropriate use by a patient of controlled substances listed in schedules II, III and IV to pharmacies, practitioners and appropriate state agencies to prevent the improper or illegal use of those controlled substances; and

(2) Statistical data relating to the use of those controlled substances that is not specific to a particular patient.

(b) Be administered by the Board, the Division, the Health Division of the Department and various practitioners, representatives of professional associations for practitioners, representatives of occupational licensing boards and prosecuting attorneys selected by the Board and the Division.

(c) Not infringe on the legal use of a controlled substance for the management of severe or intractable pain.

2. The Board and the Division must have access to the program established pursuant to subsection 1 to identify any suspected fraudulent or illegal activity related to the dispensing of controlled substances.

3. The Board or the Division shall report any activity it reasonably suspects may be fraudulent or illegal to the appropriate law enforcement agency or occupational licensing board and provide the law enforcement agency or occupational licensing board with the relevant information obtained from the program for further investigation.

4. Information obtained from the program relating to a practitioner or a patient is confidential and, except as otherwise provided by this section ~~5~~ and section 6 of this act, must not be disclosed to any person. That information must be disclosed:

(a) Upon the request of a person about whom the information requested concerns or upon the request on his behalf by his attorney; or

(b) Upon the lawful order of a court of competent jurisdiction.

5. The Board and the Division may apply for any available grants and accept any gifts, grants or donations to assist in developing and maintaining the program required by this section.

Sec. 113. NRS 453.720 is hereby amended to read as follows:

453.720 Unless otherwise requested by a narcotic addict being treated, or a person who in the past was treated, under NRS 453.660, and except as otherwise provided in section 6 of this act, all information in possession of

the Health Division of the Department, any rehabilitation clinic or any certified hospital concerning such person is confidential and privileged.

Sec. 114. NRS 453A.610 is hereby amended to read as follows:

453A.610 1. Except as otherwise provided in this section ~~and~~ section 6 of this act, the University of Nevada School of Medicine shall maintain the confidentiality of and shall not disclose:

(a) The contents of any applications, records or other written materials that the School of Medicine creates or receives pursuant to the research program described in NRS 453A.600; or

(b) The name or any other identifying information of a person who has applied to or who participates in the research program described in NRS 453A.600.

↪ ~~The~~ Except as otherwise provided in section 6 of this act, the items of information described in this subsection are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

2. Notwithstanding the provisions of subsection 1, the School of Medicine may release the name and other identifying information of a person who has applied to or who participates in the research program described in NRS 453A.600 to:

(a) Authorized employees of the State of Nevada as necessary to perform official duties related to the research program; and

(b) Authorized employees of state and local law enforcement agencies, only as necessary to verify that a person is a lawful participant in the research program.

Sec. 115. NRS 453A.700 is hereby amended to read as follows:

453A.700 1. Except as otherwise provided in this section ~~and~~ subsection 4 of NRS 453A.210 and section 6 of this act, the Department and any designee of the Department shall maintain the confidentiality of and shall not disclose:

(a) The contents of any applications, records or other written documentation that the Department or its designee creates or receives pursuant to the provisions of this chapter; or

(b) The name or any other identifying information of:

(1) An attending physician; or

(2) A person who has applied for or to whom the Department or its designee has issued a registry identification card.

↪ ~~The~~ Except as otherwise provided in section 6 of this act, the items of information described in this subsection are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

2. Notwithstanding the provisions of subsection 1, the Department or its designee may release the name and other identifying information of a person to whom the Department or its designee has issued a registry identification card to:

(a) Authorized employees of the Department or its designee as necessary to perform official duties of the Department; and

(b) Authorized employees of state and local law enforcement agencies, only as necessary to verify that a person is the lawful holder of a registry identification card issued to him pursuant to NRS 453A.220 or 453A.250.

Sec. 116. NRS 459.050 is hereby amended to read as follows:

459.050 1. Any authorized representative of the Health Division may enter at any reasonable time upon any private or public property for the purpose of determining whether there is compliance with or violation of the provisions of NRS 459.010 to 459.290, inclusive, or of the rules and regulations promulgated under NRS 459.010 to 459.290, inclusive, and the owner, occupant or person in charge of such property shall permit such entry and inspection.

2. Entry into areas under the jurisdiction of the Federal Government shall be effected only with the concurrence of the Federal Government or its duly designated representative.

3. Any report of investigation or inspection, or any information concerning trade secrets or secret industrial processes obtained under NRS 459.010 to 459.290, inclusive, shall not be disclosed or opened to public inspection except *as otherwise provided in section 6 of this act or as* may be necessary for the performance of the functions of the State Board of Health.

Sec. 117. NRS 459.555 is hereby amended to read as follows:

459.555 1. Except as otherwise provided in this section, information which the Department obtains in the course of the performance of its duties relating to hazardous waste is public information.

2. ~~[Any]~~ *Except as otherwise provided in section 6 of this act, any* information which specifically relates to the trade secrets of any person, including any processes, operations, style of work or apparatus, is confidential whenever it is established to the satisfaction of the Director that the information is entitled to protection as a trade secret. In determining whether the information is entitled to protection, the Director shall consider, among other things, whether the disclosure of that information would tend to affect adversely the competitive position of the information's owner.

3. Any information which is confidential under subsection 2 may be disclosed to any officer, employee or authorized representative of this State or the United States if:

(a) He is engaged in carrying out the provisions of NRS 459.400 to 459.600, inclusive, or the provisions of federal law relating to hazardous waste; or

(b) The information is relevant in any judicial proceeding or adversary administrative proceeding under NRS 459.400 to 459.600, inclusive, or under the provisions of federal law relating to hazardous waste, and is admissible under the rules of evidence.

4. The Commission shall adopt regulations concerning the availability of information which satisfy the criteria established by the Federal Government

for delegation to the state of federal programs concerning the management of, and the enforcement of laws relating to, hazardous waste.

Sec. 118. NRS 459.7056 is hereby amended to read as follows:

459.7056 1. Except as otherwise provided in subsection 2 *or section 6 of this act* or required by federal law, the following information is confidential when provided to the Department on a uniform application:

- (a) Any information regarding the ownership of a motor carrier.
- (b) Any information regarding a parent company, affiliate or subsidiary of a motor carrier.
- (c) Any information regarding the financial balance sheet and statement of income of a motor carrier.
- (d) Any information regarding the liability of a motor carrier for any debts.
- (e) Any information regarding the customers of a motor carrier, including the services provided to specific customers.

2. The Department may, to the extent required for the administration of the uniform program, disclose any information described in subsection 1 to:

- (a) An appropriate agency of the Federal Government or a participating state; or
- (b) A national repository established to assist in the administration of the uniform program.

Sec. 119. NRS 459.846 is hereby amended to read as follows:

459.846 1. Except as otherwise provided in this section, information which the Department obtains in the course of the performance of its duties relating to storage tanks is public information.

2. ~~Any~~ *Except as otherwise provided in section 6 of this act, any* information which specifically relates to the trade secrets of any person is confidential. The following information shall be deemed a trade secret:

(a) Information concerning fuel additives. For the purposes of this paragraph, "fuel additives" are ingredients which are present in fuel compositions in amounts of less than 1 percent by weight, including detergents, dispersants, demulsifiers and dyes.

(b) Any other information considered to be a trade secret by the Director. A trade secret may include a formula, composition, process, method of operation, compilation of information or apparatus which is used in a person's business and gives that person an opportunity to obtain an advantage over competitors. In determining whether information is a trade secret, the Director shall consider whether the information is publicly available in written form and, if not, whether its disclosure would tend to affect adversely the competitive position of the owner of the information.

3. Any information which is confidential under subsection 2 may be disclosed to any officer, employee or authorized representative of this State or the United States if:

(a) He is engaged in carrying out the provisions of NRS 459.800 to 459.856, inclusive, or the provisions of federal law relating to storage tanks; or

(b) The information is relevant in any judicial proceeding or adversary administrative proceeding under NRS 459.800 to 459.856, inclusive, or under the provisions of federal law relating to storage tanks, and is admissible under the rules of evidence.

➔ The disclosure must be made in a manner which preserves the status of the information as a trade secret.

Sec. 120. NRS 482.170 is hereby amended to read as follows:

482.170 Except as otherwise provided in NRS 481.063 and 485.316, ~~§~~ and section 6 of this act, all personal information in the records of registration and licensing in the offices of the Department is confidential and must not knowingly be disclosed by the Department.

Sec. 121. NRS 483.340 is hereby amended to read as follows:

483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive. The license must bear a unique number assigned to the licensee pursuant to NRS 483.345, the licensee's social security number, if he has one, unless he requests that it not appear on the license, the name, date of birth, mailing address and a brief description of the licensee, and a space upon which the licensee shall write his usual signature in ink immediately upon receipt of the license. A license is not valid until it has been so signed by the licensee.

2. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General or the Chairman of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.

3. ~~Information]~~ Except as otherwise provided in section 6 of this act, information pertaining to the issuance of a driver's license pursuant to subsection 2 is confidential.

4. It is unlawful for any person to use a driver's license issued pursuant to subsection 2 for any purpose other than the special investigation for which it was issued.

5. At the time of the issuance or renewal of the driver's license, the Department shall:

(a) Give the holder the opportunity to have indicated on his driver's license that he wishes to be a donor of all or part of his body pursuant to NRS 451.500 to 451.590, inclusive, or to refuse to make an anatomical gift of his body or part of his body.

(b) Give the holder the opportunity to have indicated whether he wishes to donate \$1 or more to the Anatomical Gift Account created by NRS 460.150.

(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the organ donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with an organization which registers as donors persons who desire to make anatomical gifts.

(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his driver's license.

6. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.

7. The Department shall submit to the organ donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 5 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 122. NRS 483.363 is hereby amended to read as follows:

483.363 1. A person who is 18 years of age or older may file with the Department a report requesting that the Department examine a licensee who:

(a) Is related to the person filing the report within the third degree of consanguinity or who is the spouse of the person filing the report; and

(b) The person filing the report reasonably and in good faith believes cannot safely operate a motor vehicle.

2. The report described in subsection 1 must:

(a) Include the name, relationship, address, telephone number and signature of the person filing the report.

(b) State the person's basis for believing that the licensee cannot safely operate a motor vehicle, which basis must be:

(1) Personal observation or physical evidence of a physical or medical condition that has the potential to impair the ability of the licensee to operate

a motor vehicle, corroborated by an affidavit from a physician in which the physician concurs that the licensee should be examined to determine the licensee's ability to safely operate a motor vehicle;

(2) Personal knowledge that the driving record of the licensee indicates the unsafe operation of a motor vehicle, corroborated by an affidavit from a physician in which the physician concurs that the licensee should be examined to determine the licensee's ability to safely operate a motor vehicle; or

(3) An investigation by a law enforcement officer.

(c) Be kept confidential, except as otherwise provided in section 6 of this act and except that the report must be released upon request of the licensee or an order of a court of competent jurisdiction.

➡ No person may file more than one report concerning the same licensee within a 12-month period.

3. The Director shall prescribe:

(a) A standard form to be used for the filing of a report pursuant to this section; and

(b) The procedure to be used for the filing of a report pursuant to this section.

Sec. 123. NRS 483.800 is hereby amended to read as follows:

483.800 1. The following sources shall submit, within 30 days after learning such information, to the Department the name, address, birth date, social security number, visual acuity and any other information which may be required by regulation of the Department, of persons who are blind or night-blind or whose vision is severely impaired and shall designate whether the person is blind, night-blind or has severely impaired vision:

(a) Hospitals, medical clinics and similar institutions which treat persons who are blind, night-blind or whose vision is severely impaired; and

(b) Agencies of the State and political subdivisions which provide special tax consideration for blindness.

2. When any source described in subsection 1 learns that vision has been restored to any person whose name appears in the registry established pursuant to subsection 3, the fact of restoration of vision must be reported to the registry within 30 days after learning of that fact.

3. The Department may establish a registry for the purposes of this section and adopt regulations governing reports to and operation of the registry.

4. The Department shall maintain a file of the names, addresses, birth dates and social security numbers of persons who are blind or night-blind or whose vision is severely impaired.

5. ~~[(A)]~~ Except as otherwise provided in section 6 of this act, all information learned by the Department pursuant to this section is confidential and any person who, without the consent of the person concerned, reveals that information for purposes other than those specified in this section, or other than for administration of the Program for Supplemental Security

Income, including State Supplementary Assistance pursuant to chapter 422 or 422A of NRS, or services to blind persons pursuant to NRS 426.518 to 426.610, inclusive, is guilty of a misdemeanor.

Sec. 124. NRS 484.229 is hereby amended to read as follows:

484.229 1. Except as otherwise provided in subsections 2, 3 and 4, the driver of a vehicle which is in any manner involved in an accident on a highway or on premises to which the public has access, if the accident results in bodily injury to or the death of any person or total damage to any vehicle or item of property to an apparent extent of \$750 or more, shall, within 10 days after the accident, forward a written report of the accident to the Department. Whenever damage occurs to a motor vehicle, the operator shall attach to the accident report an estimate of repairs or a statement of the total loss from an established repair garage, an insurance adjuster employed by an insurer licensed to do business in this State, an adjuster licensed pursuant to chapter 684A of NRS or an appraiser licensed pursuant to chapter 684B of NRS. The Department may require the driver or owner of the vehicle to file supplemental written reports whenever the original report is insufficient in the opinion of the Department.

2. A report is not required from any person if the accident was investigated by a law enforcement agency and the report of the investigating officer contains:

- (a) The name and address of the insurance company providing coverage to each person involved in the accident;
- (b) The number of each policy; and
- (c) The dates on which the coverage begins and ends.

3. The driver of a vehicle subject to the jurisdiction of the Surface Transportation Board or the Transportation Services Authority need not submit in his report the information requested pursuant to subsection 3 of NRS 484.247 until the 10th day of the month following the month in which the accident occurred.

4. A written accident report is not required pursuant to this chapter from any person who is physically incapable of making a report, during the period of his incapacity. Whenever the driver is physically incapable of making a written report of an accident as required in this section and he is not the owner of the vehicle, the owner shall within 10 days after knowledge of the accident make the report not made by the driver.

5. All written reports required in this section to be forwarded to the Department by drivers or owners of vehicles involved in accidents are without prejudice to the person so reporting and are for the confidential use of the Department or other state agencies having use of the records for accident prevention, *except as otherwise provided in section 6 of this act and* except that the Department may disclose to a person involved in an accident or to his insurer the identity of another person involved in the accident when his identity is not otherwise known or when he denies his presence at the

accident. The Department may also disclose the name of his insurer and the number of his policy.

6. A written report forwarded pursuant to the provisions of this section may not be used as evidence in any trial, civil or criminal, arising out of an accident except that the Department shall furnish upon demand of any party to such a trial, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the Department in compliance with law, and, if the report has been made, the date, time and location of the accident, the names and addresses of the drivers, the owners of the vehicles involved and the investigating officers. The report may be used as evidence when necessary to prosecute charges filed in connection with a violation of NRS 484.236.

Sec. 125. NRS 485.316 is hereby amended to read as follows:

485.316 1. Except as otherwise provided in subsections 2 and 3 ~~and~~ and section 6 of this act, information which is maintained in the database created pursuant to NRS 485.313 is confidential.

2. The Department may only disclose information which is maintained in the database, upon request, to a state or local governmental agency for the purpose of enforcing NRS 485.185, including investigating or litigating a violation or alleged violation.

3. The Department may only disclose information retrieved from the database to:

- (a) A person who requests information regarding his own status;
- (b) The parent or legal guardian of the person about whom the information is requested if the person is an unemancipated minor or legally incapacitated;
- (c) A person who has a power of attorney from the person about whom the information is requested;
- (d) A person who submits a notarized release from the person about whom the information is requested which is dated no more than 90 days before the date of the request; or
- (e) A person who has suffered a loss or injury in an accident involving a motor vehicle, or his authorized insurer or a representative of his authorized insurer, who requests:

- (1) Information for use in the accident report; and
- (2) For each motor vehicle involved in the accident:
 - (I) The name and address of each registered owner;
 - (II) The name of the insurer; and
 - (III) The number of the policy of liability insurance.

4. A person who knowingly violates the provisions of this section is guilty of a category D felony and shall be punished as provided in NRS 193.130.

5. As used in this section, "authorized insurer" has the meaning ascribed to it in NRS 679A.030.

Sec. 126. NRS 561.285 is hereby amended to read as follows:

561.285 1. Except as otherwise provided in subsection 2, the Department may collect and disseminate, throughout the State, information calculated to educate and benefit the general public and the livestock and agricultural industries of the State of Nevada, and information pertaining to any program administered by the Department.

2. Except as otherwise provided in NRS 571.160, ~~and~~ and section 6 of this act, all proprietary information concerning:

- (a) Numbers of animals;
- (b) The quantity of production;
- (c) Fiscal or tax matters; or
- (d) The security of any facility,

↪ which specifically relates to a natural person, company, corporation or other nonpublic entity, and which is collected by the Department pursuant to the provisions of titles 49 and 50 of NRS and chapters 581, 582, 583, 586, 587, 588 and 590 of NRS, is confidential.

Sec. 127. NRS 571.160 is hereby amended to read as follows:

571.160 If any animal becomes infected with any infectious, contagious or parasitic disease as defined by rules and regulations adopted by the State Quarantine Officer, the owner or agent in charge of the infected animal, or any inspector of the Department or any practicing veterinarian who has knowledge of the infected animal, shall immediately notify the State Quarantine Officer. ~~Except as otherwise provided in section 6 of this act,~~ a notification of disease received pursuant to this section must be kept confidential unless:

1. The reported disease is specifically regulated pursuant to NRS 571.130 for mandatory control and eradication to protect the public health, other animals or wildlife; or

2. The State Quarantine Officer determines that a public health emergency exists.

Sec. 128. NRS 584.583 is hereby amended to read as follows:

584.583 1. No distributor or retailer may sell fluid milk, fluid cream, butter or any fresh dairy product below cost.

2. In determining the cost for a distributor who processes or manufactures fluid milk, fluid cream, butter or any fresh dairy product, the following factors, in addition to any other factor acceptable to the Commission, must be considered:

(a) Cost of raw products based on actual cost or on current and prospective supplies of fluid milk and fluid cream in relation to current and prospective demands for fluid milk and fluid cream.

(b) Cost of production.

(c) Reasonable return on capital investment.

(d) Producer's costs for transportation.

(e) Cost of compliance with health regulations.

(f) Overhead.

3. In determining the cost for a peddler-distributor or retailer, the following factors, in addition to any other factor acceptable to the Commission, must be considered:

- (a) Purchase price of the product.
- (b) Overhead for handling.
- (c) Reasonable return on capital investment.

4. For the purposes of subsections 2 and 3:

(a) Reasonable return on capital investment must be calculated per unit of production by dividing the product of:

- (1) The net capital investment; and
- (2) The reasonable rate of return on capital investment,

↪ by the total sales per unit of production. "Net capital investment" includes land, buildings, equipment and any other capital asset used as a rate base. A reasonable rate of return on capital investment shall be deemed to be the rate fixed for 6-month United States treasury bills at the auction in the first week of the month of January or July immediately preceding the date that the reasonable return on capital investment is calculated.

(b) Costs for overhead must be determined according to generally accepted principles of accounting and allocated proportionately to each unit of production. Costs for overhead include salaries for executives and officers of the company, all other costs of labor, including indirect costs, rent, depreciation, costs for maintenance, costs incurred in delivering the product, fees for licenses, taxes and insurance, cost of materials, costs for repairs, the cost of electricity and other public utilities, and all other costs that relate to the sale and distribution of the product. Any expense incurred in the marketing of a finished or manufactured dairy product which cannot be attributed directly to a particular product must be apportioned to the product on a basis consistent with generally accepted principles of accounting relating to costs.

5. Each distributor who processes or manufactures fluid milk, fluid cream, butter or any fresh dairy product and each peddler-distributor shall file with the Commission a statement of costs, listing separately, and as applicable, the items set forth in subsection 2 or 3 of this section and any other applicable factors relating to cost. The statements must be kept current as prescribed by regulations adopted by the Commission. All statements must be kept confidential by the Commission except as otherwise provided in section 6 of this act and except when used in judicial or administrative proceedings pursuant to NRS 584.325 to 584.670, inclusive.

6. Each distributor who processes or manufactures fluid milk, fluid cream, butter or any fresh dairy product and each peddler-distributor shall file with the Commission lists of wholesale prices and of minimum retail, distributor and dock prices. No distributor may sell at wholesale prices other than, or at retail, distributor or dock prices less than, those contained in the appropriate list, except in the case of bids to departments or agencies of

federal, state and local governments. In no case may the distributor sell or offer to sell below cost.

Sec. 129. NRS 584.5835 is hereby amended to read as follows:

584.5835 1. A distributor shall not sell a substitute dairy product, as defined in NRS 584.176, below its cost to him.

2. A distributor who sells or distributes a substitute dairy product shall file with the Commission a statement of the cost of the substitute dairy product to him. The statement must be supplemented periodically as required by regulations adopted by the Commission. The Commission shall keep all statements confidential except as otherwise provided in section 6 of this act and except when used in a judicial proceeding or an administrative proceeding relating to the provisions of this chapter.

Sec. 130. NRS 584.655 is hereby amended to read as follows:

584.655 Any record or report made to the Commission pursuant to the provisions of NRS 584.650 shall be confidential and shall not be divulged except as otherwise provided in section 6 of this act and except when necessary for the proper determination of any court proceedings or hearing before the Commission.

Sec. 131. NRS 598.0979 is hereby amended to read as follows:

598.0979 1. Notwithstanding the requirement of knowledge as an element of a deceptive trade practice, when the Commissioner or Director has cause to believe that a person has engaged or is engaging in any deceptive trade practice, knowingly or otherwise, he may request in writing that the Attorney General represent him in instituting an appropriate legal proceeding, including, without limitation, an application for an injunction or temporary restraining order prohibiting the person from continuing the practices. The court may make orders or judgments necessary to prevent the use by the person of any such deceptive trade practice or to restore to any other person any money or property which may have been acquired by the deceptive trade practice.

2. Where the Commissioner or Director has the authority to institute a civil action or other proceeding, in lieu thereof or as a part thereof, he may accept an assurance of discontinuance of any deceptive trade practice. This assurance may include a stipulation for the payment by the alleged violator of:

(a) The costs of investigation and the costs of instituting the action or proceeding;

(b) Any amount of money which he may be required to pay pursuant to the provisions of NRS 598.0971 in lieu of any administrative fine; and

(c) The restitution of any money or property acquired by any deceptive trade practice.

➔ Except as otherwise provided in this subsection, ~~the~~ and section 6 of this act, any assurance of discontinuance accepted by the Commissioner or Director and any stipulation filed with the court is confidential to the parties to the action or proceeding and to the court and its employees. Upon final

judgment by the court that an injunction or a temporary restraining order, issued as provided in subsection 1, ~~[of this section]~~ has been violated, an assurance of discontinuance has been violated or a person has engaged in the same deceptive trade practice as had previously been enjoined, the assurance of discontinuance or stipulation becomes a public record. Proof by a preponderance of the evidence of a violation of an assurance constitutes prima facie evidence of a deceptive trade practice for the purpose of any civil action or proceeding brought thereafter by the Commissioner or Director, whether a new action or a subsequent motion or petition in any pending action or proceeding.

Sec. 132. NRS 598A.110 is hereby amended to read as follows:

598A.110 Any procedure, testimony taken, document or other tangible evidence produced, or answer made under NRS 598A.100 shall 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. Confidentiality is waived by the person upon whom the written investigative demand is made, ~~+~~ or pursuant to section 6 of this act;

2. Disclosure is authorized by the district court; or

3. Disclosure is made pursuant to NRS 598A.080.H

Sec. 133. NRS 599B.090 is hereby amended to read as follows:

599B.090 1. An applicant for registration as a seller must submit to the Division, in such form as it prescribes, a written application for registration. The application must:

(a) Set forth the name of the applicant, including each name under which he intends to do business;

(b) Set forth the name of any parent or affiliated entity that:

(1) Will engage in a business or other transaction with the consumer relating to any sale or donation solicited by the applicant; or

(2) Accepts responsibility for any statement or act of the applicant relating to any sale or donation solicited by the applicant;

(c) Set forth the complete street address of each location, designating the principal location, from which the applicant will be doing business;

(d) Contain a list of all telephone numbers to be used by the applicant, with the address where each telephone using these numbers will be located;

(e) Set forth the name and address of each:

(1) Principal officer, director, trustee, shareholder, owner or partner of the applicant, and of each other person responsible for the management of the business of the applicant;

(2) Person responsible for a location from which the applicant will do business; and

(3) Salesman to be employed by or otherwise associated with the applicant;

(f) Be accompanied by a copy of any:

(1) Script, outline or presentation the applicant will require a salesman to use when soliciting or, if no such document is used, a statement to that effect;

(2) Sales or donation information or literature to be provided by the applicant to a salesman, or of which the applicant will inform the salesman; and

(3) Sales or donation information or literature to be provided by the applicant to a consumer in connection with any solicitation;

(g) If the applicant is a corporation, be signed by an officer of the corporation; and

(h) If the applicant is a natural person, be completed personally by the applicant.

2. Any material submitted pursuant to paragraph (f) of subsection 1 is submitted for the records of the Division and not for the approval of the Division.

3. The information provided pursuant to paragraph (f) of subsection 1 by an applicant for registration as a seller is confidential and may only be released to a law enforcement agency, to a court of competent jurisdiction ~~or~~ by order of a court of competent jurisdiction ~~or~~ or pursuant to section 6 of this act.

4. If the applicant is other than a natural person, or if any parent or affiliated entity is identified pursuant to paragraph (b) of subsection 1, the applicant must, for itself and any such entity, identify its place of organization and:

(a) In the case of a partnership, provide a copy of any written partnership agreement; or

(b) In the case of a corporation, provide a copy of its articles of incorporation and bylaws.

5. An application filed pursuant to this section must be verified and accompanied by:

(a) A bond, letter of credit or certificate of deposit satisfying the requirements of NRS 599B.100;

(b) A fee for registration in the amount of \$6,000;

(c) If subsection 6 applies, the additional bond, letter of credit or certificate of deposit and the additional fee required by that subsection; and

(d) A copy of:

(1) The work card issued to the seller pursuant to subsection 1 of NRS 599B.115, if the seller is required to obtain a work card; and

(2) The work cards of any other persons associated with the seller who are required to obtain work cards pursuant to subsection 2 of NRS 599B.115.

6. If an applicant intends to do business under any assumed or fictitious name, he must, for each such name:

(a) File an additional bond, letter of credit or certificate of deposit satisfying the requirements of NRS 599B.100; and

(b) Pay an additional fee for registration in the amount of \$6,000.

Sec. 134. NRS 603.070 is hereby amended to read as follows:

603.070 ~~[(A)]~~ Except as otherwise provided in section 6 of this act, a governmental agency which obtains a proprietary program or the data stored in a computer must keep the program or data confidential. The governmental agency may only use the program or data for the purpose for which it was obtained, and may not release the program or data without the prior written consent of the owner.

Sec. 135. NRS 612.265 is hereby amended to read as follows:

612.265 1. Except as otherwise provided in this section ~~[(1)]~~ and section 6 of this act, information obtained from any employing unit or person pursuant to the administration of this chapter and any determination as to the benefit rights of any person is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's or employing unit's identity.

2. Any claimant or his legal representative is entitled to information from the records of the Division, to the extent necessary for the proper presentation of his claim in any proceeding pursuant to this chapter. A claimant or an employing unit is not entitled to information from the records of the Division for any other purpose.

3. Subject to such restrictions as the Administrator may by regulation prescribe, the information obtained by the Division may be made available to:

(a) Any agency of this or any other state or any federal agency charged with the administration or enforcement of laws relating to unemployment compensation, public assistance, workers' compensation or labor and industrial relations, or the maintenance of a system of public employment offices;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation; and

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS.

➡ Information obtained in connection with the administration of the Employment Service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or a public assistance program.

4. Upon written request made by a public officer of a local government, the Administrator shall furnish from the records of the Division the name, address and place of employment of any person listed in the records of employment of the Division. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. ~~[(The)]~~ Except as otherwise provided in section 6 of this act, the information obtained by the local

government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Administrator may charge a reasonable fee for the cost of providing the requested information.

5. The Administrator may publish or otherwise provide information on the names of employers, their addresses, their type or class of business or industry, and the approximate number of employees employed by each such employer, if the information released will assist unemployed persons to obtain employment or will be generally useful in developing and diversifying the economic interests of this State. Upon request by a state agency which is able to demonstrate that its intended use of the information will benefit the residents of this State, the Administrator may, in addition to the information listed in this subsection, disclose the number of employees employed by each employer and the total wages paid by each employer. The Administrator may charge a fee to cover the actual costs of any administrative expenses relating to the disclosure of this information to a state agency. The Administrator may require the state agency to certify in writing that the agency will take all actions necessary to maintain the confidentiality of the information and prevent its unauthorized disclosure.

6. Upon request therefor the Administrator shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation and employment status of each recipient of benefits and the recipient's rights to further benefits pursuant to this chapter.

7. To further a current criminal investigation, the chief executive officer of any law enforcement agency of this State may submit a written request to the Administrator that he furnish, from the records of the Division, the name, address and place of employment of any person listed in the records of employment of the Division. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by the chief executive officer certifying that the request is made to further a criminal investigation currently being conducted by the agency. Upon receipt of such a request, the Administrator shall furnish the information requested. He may charge a fee to cover the actual costs of any related administrative expenses.

8. In addition to the provisions of subsection 5, the Administrator shall provide lists containing the names and addresses of employers, and information regarding the wages paid by each employer to the Department of Taxation, upon request, for use in verifying returns for the taxes imposed pursuant to chapters 363A and 363B of NRS. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

9. A private carrier that provides industrial insurance in this State shall submit to the Administrator a list containing the name of each person who received benefits pursuant to chapters 616A to 616D, inclusive, or 617 of

NRS during the preceding month and request that he compare the information so provided with the records of the Division regarding persons claiming benefits pursuant to chapter 612 of NRS for the same period. The information submitted by the private carrier must be in a form determined by the Administrator and must contain the social security number of each such person. Upon receipt of the request, the Administrator shall make such a comparison and, if it appears from the information submitted that a person is simultaneously claiming benefits under chapter 612 of NRS and under chapters 616A to 616D, inclusive, or 617 of NRS, the Administrator shall notify the Attorney General or any other appropriate law enforcement agency. The Administrator shall charge a fee to cover the actual costs of any related administrative expenses.

10. The Administrator may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this chapter, and may in connection with the request transmit any such report or return to the Comptroller of the Currency of the United States as provided in section 3305(c) of the Internal Revenue Code of 1954.

11. If any employee or member of the Board of Review, the Administrator or any employee of the Administrator, in violation of the provisions of this section, discloses information obtained from any employing unit or person in the administration of this chapter, or if any person who has obtained a list of applicants for work, or of claimants or recipients of benefits pursuant to this chapter uses or permits the use of the list for any political purpose, he is guilty of a gross misdemeanor.

12. All letters, reports or communications of any kind, oral or written, from the employer or employee to each other or to the Division or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of this chapter.

Sec. 136. NRS 616B.012 is hereby amended to read as follows:

616B.012 1. Except as otherwise provided in this section and ~~fin~~ NRS 616B.015, 616B.021 and 616C.205 ~~fin~~ and section 6 of this act, information obtained from any insurer, employer or employee is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's identity.

2. Any claimant or his legal representative is entitled to information from the records of the insurer, to the extent necessary for the proper presentation of a claim in any proceeding under chapters 616A to 616D, inclusive, or chapter 617 of NRS.

3. The Division and Administrator are entitled to information from the records of the insurer which is necessary for the performance of their duties. The Administrator may, by regulation, prescribe the manner in which otherwise confidential information may be made available to:

(a) Any agency of this or any other state charged with the administration or enforcement of laws relating to industrial insurance, unemployment compensation, public assistance or labor law and industrial relations;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation; and

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS.

➔ Information obtained in connection with the administration of a program of industrial insurance may be made available to persons or agencies for purposes appropriate to the operation of a program of industrial insurance.

4. Upon written request made by a public officer of a local government, an insurer shall furnish from its records the name, address and place of employment of any person listed in its records. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. ~~[The]~~ Except as otherwise provided in section 6 of this act, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to the local government. The insurer may charge a reasonable fee for the cost of providing the requested information.

5. To further a current criminal investigation, the chief executive officer of any law enforcement agency of this State may submit to the Administrator a written request for the name, address and place of employment of any person listed in the records of an insurer. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by the chief executive officer certifying that the request is made to further a criminal investigation currently being conducted by the agency. Upon receipt of a request, the Administrator shall instruct the insurer to furnish the information requested. Upon receipt of such an instruction, the insurer shall furnish the information requested. The insurer may charge a reasonable fee to cover any related administrative expenses.

6. Upon request by the Department of Taxation, the Administrator shall provide:

(a) Lists containing the names and addresses of employers; and

(b) Other information concerning employers collected and maintained by the Administrator or the Division to carry out the purposes of chapters 616A to 616D, inclusive, or chapter 617 of NRS,

➔ to the Department for its use in verifying returns for the taxes imposed pursuant to chapters 363A and 363B of NRS. The Administrator may charge a reasonable fee to cover any related administrative expenses.

7. Any person who, in violation of this section, discloses information obtained from files of claimants or policyholders or obtains a list of claimants

or policyholders under chapters 616A to 616D, inclusive, or chapter 617 of NRS and uses or permits the use of the list for any political purposes, is guilty of a gross misdemeanor.

8. All letters, reports or communications of any kind, oral or written, from the insurer, or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

9. The provisions of this section do not prohibit the Administrator or the Division from disclosing any nonproprietary information relating to an uninsured employer or proof of industrial insurance.

Sec. 137. NRS 616B.015 is hereby amended to read as follows:

616B.015 1. Except as otherwise provided in subsection 2 ~~of~~ and section 6 of this act, the records and files of the Division concerning self-insured employers and associations of self-insured public or private employers are confidential and may be revealed in whole or in part only in the course of the administration of the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS relating to those employers or upon the lawful order of a court of competent jurisdiction.

2. The records and files specified in subsection 1 are not confidential in the following cases:

(a) Testimony by an officer or agent of the Division and the production of records and files on behalf of the Division in any action or proceeding conducted pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS if that testimony or the records and files, or the facts shown thereby, are involved in the action or proceeding.

(b) Delivery to a self-insured employer or an association of self-insured public or private employers of a copy of any document filed by the employer with the Division pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

(c) Publication of statistics if classified so as to prevent:

(1) Identification of a particular employer or document; or

(2) Disclosure of the financial or business condition of a particular employer or insurer.

(d) Disclosure in confidence, without further distribution or disclosure to any other person, to:

(1) The Governor or his agent in the exercise of the Governor's general supervisory powers;

(2) Any person authorized to audit the accounts of the Division in pursuance of an audit;

(3) The Attorney General or other legal representative of the State in connection with an action or proceeding conducted pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(4) Any agency of this or any other state charged with the administration or enforcement of the laws relating to workers' compensation or unemployment compensation; or

(5) Any federal, state or local law enforcement agency.

(e) Disclosure in confidence by a person who receives information pursuant to paragraph (d) to a person in furtherance of the administration or enforcement of the laws relating to workers' compensation or unemployment compensation.

3. As used in this section:

(a) "Division" means the Division of Insurance of the Department of Business and Industry.

(b) "Records and files" means:

(1) All credit reports, references, investigative records, financial information and data pertaining to the net worth of a self-insured employer or association of self-insured public or private employers; and

(2) All information and data required by the Division to be furnished to it pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS or which may be otherwise obtained relative to the finances, earnings, revenue, trade secrets or the financial condition of any self-insured employer or association of self-insured public or private employers.

Sec. 138. NRS 616B.315 is hereby amended to read as follows:

616B.315 A self-insured employer shall notify the Commissioner not less than 60 days before any change in ownership or control of the employer. The certification of the self-insured employer terminates automatically on the date of the change unless the Commissioner extends the certification. Except as otherwise provided in NRS 616B.015, the Commissioner, upon request, may declare as confidential any documents which are submitted in support of a request for such an extension. Documents declared confidential pursuant to this section are subject to the provisions of section 6 of this act.

Sec. 139. NRS 616B.350 is hereby amended to read as follows:

616B.350 1. A group of five or more employers may not act as an association of self-insured public employers unless the group:

(a) Is composed of employers engaged in the same or similar classifications of employment; and

(b) Has been issued a certificate to act as such an association by the Commissioner.

2. A group of five or more employers may not act as an association of self-insured private employers unless each member of the group:

(a) Is a member or associate member of a bona fide trade association, as determined by the Commissioner, which:

(1) Is incorporated in this State; and

(2) Has been in existence for at least 5 years; and

(b) Has been issued a certificate to act as such an association by the Commissioner.

3. An association of public or private employers that wishes to be issued a certificate must file with the Commissioner an application for certification.

4. The application must include:

(a) The name of the association.

(b) The address of:

(1) The principal office of the association.

(2) The location where the books and records of the association will be maintained.

(c) The date the association was organized.

(d) The name and address of each member of the association.

(e) The names of the initial members of the board of trustees and the name of the initial association's administrator.

(f) Such other information as the Commissioner may require.

5. The application must be accompanied by:

(a) A nonrefundable filing fee of \$1,000.

(b) Proof of compliance with NRS 616B.353.

(c) Proof that the association or its third-party administrator is licensed or otherwise authorized to conduct business in this State pursuant to title 57 of NRS.

(d) A copy of the agreements entered into with the association's administrator and a third-party administrator.

(e) A copy of the bylaws of the association.

(f) A copy of an agreement jointly and severally binding the association and each member of the association to secure the payment of all compensation due pursuant to chapters 616A to 617, inclusive, of NRS.

(g) A pro forma financial statement prepared by an independent certified public accountant in accordance with generally accepted accounting principles that shows the financial ability of the association to pay all compensation due pursuant to chapters 616A to 617, inclusive, of NRS.

(h) A reviewed financial statement prepared by an independent certified public accountant for each proposed member of the association or evidence of the ability of the association or its proposed members to provide a solvency bond pursuant to subsection 3 of NRS 616B.353.

(i) Proof that each member of the association will make the initial payment to the association required pursuant to NRS 616B.416 on a date specified by the Commissioner. The payment shall be deemed to be a part of the assessment required to be paid by each member for the first year of self-insurance if certification is issued to the association.

6. ~~Any~~ Except as otherwise provided in section 6 of this act, any financial information relating to a member of an association received by the Commissioner pursuant to the provisions of this section is confidential and must not be disclosed.

7. For the purposes of this section, "associate member of a bona fide trade association" means a supplier whose business, as determined by the Commissioner:

- (a) Is limited to a specific industry; and
- (b) Primarily involves providing a product or service that is directly used or consumed by substantially all of the members of the trade association or bears a direct relationship to the business of the members of the association.

Sec. 140. NRS 618.341 is hereby amended to read as follows:

618.341 1. Except as otherwise provided in this section, the public may inspect all records of the Division which contain information regarding:

- (a) An oral or written complaint filed by an employee or a representative of employees alleging the existence of an imminent danger or a violation of a safety or health standard that threatens physical harm;
- (b) The manner in which the Division acted on any such complaint;
- (c) Any citation issued by the Division to an employer and the reason for its issuance; and
- (d) Any penalty imposed by the Division on an employer and the reason therefor.

2. The Division shall, upon oral or written request and payment of any applicable charges, provide to any person a copy of any record of the Division which is open to public inspection pursuant to subsection 1. The first six pages reproduced pursuant to each such request must be provided without charge. The charge for each additional page copied must not exceed the cost of reproduction.

3. Except as otherwise provided in subsection 4 ~~and~~ and section 6 of this act, the Division shall keep confidential:

- (a) The name of any employee who filed any complaint against an employer or who made any statement to the Division concerning an employer; and
- (b) Any information which is part of a current investigation by the Division, but the fact that an investigation is being conducted is public information.

➡ As used in this subsection, "current investigation" means any investigation conducted before the issuance of a citation or notice of violation or, if no citation or notice of violation is issued, an investigation which is not closed.

4. The Division shall, upon the receipt of a written request from a law enforcement agency, disclose otherwise confidential information to that law enforcement agency for the limited purpose of pursuing a criminal investigation.

Sec. 141. NRS 618.425 is hereby amended to read as follows:

618.425 1. Any employee, representative of employees, provider of health care or governmental officer or employee whose primary duty is to ensure public safety, including a building inspector, building official or other similar authority, believing that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an investigation by giving notice, orally or in writing, to the Administrator or his representative of the violation or danger.

2. The person giving the notice must state with reasonable particularity the grounds for the notice. ~~[The]~~ *Except as otherwise provided in section 6 of this act, the* name of any employee giving a complaint notice or names of employees mentioned in the complaint must be held confidential. If the complaint is given orally, the Division shall send to the complainant a form upon which he may supplement his oral complaint. His failure to return the form does not affect the Division's duty to act pursuant to this section.

3. If upon receipt of the notification the Division determines that there are reasonable grounds to believe that a violation or imminent danger exists, it shall make a special investigation within 14 days unless there is a substantial probability that death or serious physical harm could result from the violation or danger, then the investigation must be made immediately after the Administrator receives the notice to determine whether a violation or imminent danger exists. The Division need not investigate a complaint within the times required by this subsection if, from the facts stated in the complaint, the Administrator determines that the complaint is intended solely to harass the employer. If the Division determines that there are no reasonable grounds to believe that a violation or imminent danger exists, it shall notify the employees or other person who gave the notice of such determination within 14 days after the Administrator receives the notice.

Sec. 142. NRS 623.131 is hereby amended to read as follows:

623.131 1. Except as otherwise provided in this section ~~and~~ *and section 6 of this act*, the records of the Board which relate to an employee of the Board or an examination given by the Board are confidential.

2. The records described in this section may be disclosed, pursuant to procedures established by regulation of the Board, to a court or an agency of the Federal Government, any state, any political subdivision of this State or any other related professional board or organization.

3. Except as otherwise provided in this section ~~and~~ *and section 6 of this act*, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

4. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all other documents and information considered by the Board when determining whether to impose discipline are public records.

5. The Board may report to other related professional boards and organizations an applicant's score on an examination given by the Board.

6. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is

investigating a person, including, without limitation, a law enforcement agency.

Sec. 143. NRS 623A.353 is hereby amended to read as follows:

623A.353 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a record of the Board that relates to an employee of the Board or an examination administered by the Board is confidential.

2. The records described in this section may be disclosed, pursuant to procedures established by regulation of the Board, to:

- (a) A court;
- (b) An agency of the Federal Government;
- (c) Another state;
- (d) A political subdivision of this State; or
- (e) Any other related professional board or organization.

3. The Board may report to any other related professional board and organization the score of an applicant on an examination administered by the Board.

4. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

5. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all other documents and information considered by the Board when determining whether to impose discipline are public records.

6. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 144. NRS 624.110 is hereby amended to read as follows:

624.110 1. The Board may maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter, but it shall maintain one office in which there must be at all times open to public inspection a complete record of applications, licenses issued, licenses renewed and all revocations, cancellations and suspensions of licenses.

2. Except as otherwise required in NRS 624.327 ~~and~~ and section 6 of this act, credit reports, references, financial information and data pertaining to a licensee's net worth are confidential and not open to public inspection.

Sec. 145. 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 nolo contendere or guilty to, been found guilty 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~~ Except as otherwise provided in section 6 of this act, 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 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. 146. NRS 624.327 is hereby amended to read as follows:

624.327 1. Except as otherwise provided in this section ~~146~~ and section 6 of this act, a complaint filed with the Board, all documents and

other information filed with the complaint and all documents and other information compiled as a result of the investigation conducted to determine whether to initiate disciplinary action are confidential.

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

Sec. 147. NRS 625.425 is hereby amended to read as follows:

625.425 1. ~~Any~~ Except as otherwise provided in section 6 of this act, any information obtained during the course of an investigation by the Board and any record of an investigation is confidential. If no disciplinary action is taken against a licensee, an applicant for licensure, an intern or an applicant for certification as an intern, or no civil penalty is imposed pursuant to NRS 625.590, the information in his investigative file remains confidential.

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

3. The provisions of this section do not prohibit the Board or its employees from communicating and cooperating with another licensing board or any other agency that is investigating a person.

Sec. 148. NRS 625A.185 is hereby amended to read as follows:

625A.185 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

2. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 149. NRS 628.418 is hereby amended to read as follows:

628.418 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

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

Sec. 150. NRS 630.30665 is hereby amended to read as follows:

630.30665 1. The Board shall require each holder of a license to practice medicine to submit annually to the Board, on a form provided by the Board, and in the format required by the Board by regulation, a report:

(a) Stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his office or any other facility, excluding any surgical care performed:

- (1) At a medical facility as that term is defined in NRS 449.0151; or
- (2) Outside of this State; and

(b) Reporting the occurrence of any sentinel event arising from any such surgery.

2. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action.

3. The Board shall:

- (a) Collect and maintain reports received pursuant to subsection 1; and
- (b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access.

4. ~~FA~~ *Except as otherwise provided in section 6 of this act, a* report received pursuant to subsection 1 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

5. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

6. As used in this section:

(a) "Conscious sedation" means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.

(b) "Deep sedation" means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.

(c) "General anesthesia" means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.

(d) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry

a significant chance of serious adverse outcome. The term includes loss of limb or function.

Sec. 151. NRS 630.336 is hereby amended to read as follows:

630.336 1. Any deliberations conducted or vote taken by the Board or any investigative committee of the Board regarding its ordering of a physician, physician assistant or practitioner of respiratory care to undergo a physical or mental examination or any other examination designated to assist the Board or committee in determining the fitness of a physician, physician assistant or practitioner of respiratory care are not subject to the requirements of NRS 241.020.

2. Except as otherwise provided in subsection 3 or 4, all applications for a license to practice medicine or respiratory care, any charges filed by the Board, financial records of the Board, formal hearings on any charges heard by the Board or a panel selected by the Board, records of such hearings and any order or decision of the Board or panel must be open to the public.

3. ~~The~~ Except as otherwise provided in section 6 of this act, the following may be kept confidential:

(a) Any statement, evidence, credential or other proof submitted in support of or to verify the contents of an application;

(b) Any report concerning the fitness of any person to receive or hold a license to practice medicine or respiratory care; and

(c) Any communication between:

(1) The Board and any of its committees or panels; and

(2) The Board or its staff, investigators, experts, committees, panels, hearing officers, advisory members or consultants and counsel for the Board.

4. Except as otherwise provided in subsection 5 ~~and~~ and section 6 of this act, a complaint filed with the Board pursuant to NRS 630.307, 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.

5. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

6. This section does not prevent or prohibit the Board from communicating or cooperating with any other licensing board or agency or any agency which is investigating a licensee, including a law enforcement agency. Such cooperation may include, without limitation, providing the board or agency with minutes of a closed meeting, transcripts of oral examinations and the results of oral examinations.

Sec. 152. NRS 630A.555 is hereby amended to read as follows:

630A.555 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential,

unless the person submits a written statement to the Board requesting that such documents and information be made public records.

2. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 153. NRS 631.368 is hereby amended to read as follows:

631.368 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, any records or information obtained during the course of an investigation by the Board and any record of the investigation are confidential.

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

3. The Board may provide any record or information described in subsection 1 to any other licensing board or agency or any agency which is investigating a person licensed pursuant to this chapter, including a law enforcement agency.

Sec. 154. NRS 632.125 is hereby amended to read as follows:

632.125 1. Each hospital or agency in the State employing professional or practical nurses or nursing assistants shall submit a list of such nursing personnel to the Board at least three times annually as directed by the Board. ~~Each~~ Except as otherwise provided in section 6 of this act, each list submitted to the Board pursuant to this subsection is confidential.

2. A medical facility shall, before hiring a nursing assistant or nursing assistant trainee, obtain validation from the Board that the prospective employee has a current certificate, is enrolled in a training program required for certification or is awaiting the results of a certification examination.

Sec. 155. NRS 632.405 is hereby amended to read as follows:

632.405 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, any records or information obtained during the course of an investigation by the Board and any record of the investigation are confidential.

2. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose disciplinary action are public records.

3. This section does not prevent or prohibit the Board from communicating or cooperating with another licensing Board or any agency that is investigating a licensee, including a law enforcement agency.

Sec. 156. NRS 633.301 is hereby amended to read as follows:

633.301 1. The Board shall keep a record of its proceedings relating to licensing and disciplinary actions. Except as otherwise provided in this section, the record must be open to public inspection at all reasonable times and contain the name, known place of business and residence, and the date and number of the license of every osteopathic physician licensed under this chapter.

2. Except as otherwise provided in this section ~~157~~ *and section 6 of this act*, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

3. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all other documents and information considered by the Board when determining whether to impose discipline are public records.

4. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 157. NRS 633.524 is hereby amended to read as follows:

633.524 1. The Board shall require each holder of a license issued pursuant to this chapter to submit annually to the Board, on a form provided by the Board, and in the format required by the Board by regulation, a report:

(a) Stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his office or any other facility, excluding any surgical care performed:

(1) At a medical facility as that term is defined in NRS 449.0151; or

(2) Outside of this State; and

(b) Reporting the occurrence of any sentinel event arising from any such surgery.

2. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action.

3. The Board shall:

(a) Collect and maintain reports received pursuant to subsection 1; and

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access.

4. ~~157~~ *Except as otherwise provided in section 6 of this act*, a report received pursuant to subsection 1 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

5. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

6. As used in this section:

(a) "Conscious sedation" means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.

(b) "Deep sedation" means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.

(c) "General anesthesia" means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.

(d) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

Sec. 158. NRS 634.212 is hereby amended to read as follows:

634.212 1. The Board shall keep a record of its proceedings relating to licensing and disciplinary actions. Except as otherwise provided in NRS 634.214, the records must be open to public inspection at all reasonable times and must contain the name, known place of business and residence, and the date and number of the license of every chiropractor licensed under this chapter. The Board may keep such other records as it deems desirable.

2. Except as otherwise provided in this subsection ~~634.212~~ and section 6 of this act, all information pertaining to the personal background, medical history or financial affairs of an applicant or licensee which the Board requires to be furnished to it under this chapter, or which it otherwise obtains, is confidential and may be disclosed in whole or in part only as necessary in the course of administering this chapter or upon the order of a court of competent jurisdiction. The Board may, under procedures established by regulation, permit the disclosure of this information to any agent of the Federal Government, of another state or of any political subdivision of this State who is authorized to receive it.

3. Notice of the disclosure and the contents of the information disclosed pursuant to subsection 2 must be given to the applicant or licensee who is the subject of that information.

Sec. 159. NRS 634.214 is hereby amended to read as follows:

634.214 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of the investigation conducted to determine whether to initiate disciplinary action are confidential 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 is licensed pursuant to the provisions of this chapter.

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

Sec. 160. NRS 634A.185 is hereby amended to read as follows:

634A.185 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

2. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 161. NRS 635.158 is hereby amended to read as follows:

635.158 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

2. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information

considered by the Board when determining whether to impose discipline are public records.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 162. NRS 636.107 is hereby amended to read as follows:

636.107 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

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

Sec. 163. NRS 637.085 is hereby amended to read as follows:

637.085 1. Except as otherwise provided in this section, all applications for licensure, financial records of the Board and records of hearings and any order or decision of the Board or a panel must be open to the public.

2. Except as otherwise provided in this section ~~and~~ and section 6 of this act, the following may be kept confidential:

(a) Any statement, evidence, credential or other proof submitted in support of or to verify the contents of an application.

(b) Any report concerning the fitness of any person to receive or hold a license to practice ophthalmic dispensing.

(c) Any communication between:

(1) The Board and any of its committees or panels; and

(2) The Board or its staff, investigators, experts, committees, panels, hearing officers, advisory members or consultants and counsel for the Board.

(d) Any other information or records in the possession of the Board.

3. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

4. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information considered by the Board when determining whether to impose discipline are public records.

5. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 164. NRS 637A.315 is hereby amended to read as follows:

637A.315 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

2. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 165. NRS 637B.288 is hereby amended to read as follows:

637B.288 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

2. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 166. NRS 638.087 is hereby amended to read as follows:

638.087 1. The Board shall keep a record of:

- (a) All charges filed against a licensee;
- (b) The proceedings of any formal hearing conducted by the Board or a hearing officer;
- (c) Any order filed by the Board; and

(d) All licenses issued by the Board including the name of the holder of the license, his business address, the date the license was issued and the number of the license.

2. Except as otherwise provided in this section, the records of the Board listed in subsection 1 must be open to the public at reasonable times and places.

3. Except as otherwise provided in this section ~~§ 1~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

4. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all other documents and information considered by the Board when determining whether to impose discipline are public records.

5. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 167. NRS 638.089 is hereby amended to read as follows:

638.089 1. Except as provided in this section ~~§ 1~~ and section 6 of this act, all information received by the Board concerning an applicant for a license or a licensee, including the results of an investigation, is confidential.

2. If the Board takes disciplinary action against an applicant or licensee, the complaint and the action taken are no longer required to be confidential.

3. If the Board conducts any proceeding other than a disciplinary action regarding an applicant or licensee, its statement of findings and any order issued relating thereto are no longer required to be confidential.

4. Information concerning an applicant or a licensee may be disclosed, pursuant to procedures established by regulation of the Board, to a court or an agency of the Federal Government, any state or any political subdivision of this State. Notice of the disclosure and the contents of the information must be given to the applicant or licensee within 3 business days before the disclosure.

Sec. 168. NRS 639.2485 is hereby amended to read as follows:

639.2485 1. Except as otherwise provided in this section ~~§ 1~~ and section 6 of this act, any records or information obtained during the course of an investigation by the Board and any record of the investigation are confidential.

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

3. The Board may disclose to a practitioner and a law enforcement agency information concerning a person who procures or attempts to procure any dangerous drug or controlled substance in violation of NRS 453.391 or 454.311.

4. If the Board receives a request or subpoena for records or information obtained during an investigation by the Board and the records or information is not made public pursuant to subsection 2, the Board shall notify the person regarding whom the investigation was made of the request or subpoena. If that person does not consent in writing to the release of the records or information, the Board may release the records or information only upon the order of a court of competent jurisdiction.

Sec. 169. NRS 640.075 is hereby amended to read as follows:

640.075 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

2. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 170. NRS 640A.220 is hereby amended to read as follows:

640A.220 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

2. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is

investigating a person, including, without limitation, a law enforcement agency.

Sec. 171. NRS 640B.730 is hereby amended to read as follows:

640B.730 1. Except as otherwise provided in this section ~~and~~ *and section 6 of this act*, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

2. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 172. NRS 640C.400 is hereby amended to read as follows:

640C.400 1. The Board may issue a license to practice massage therapy.

2. An applicant for a license must:

(a) Be at least 18 years of age;

(b) Submit to the Board:

(1) A completed application on a form prescribed by the Board;

(2) The fees prescribed by the Board pursuant to NRS 640C.520;

(3) Proof that he has successfully completed a program of massage therapy recognized by the Board;

(4) A certified statement issued by the licensing authority in each state, territory or possession of the United States or the District of Columbia in which the applicant is or has been licensed to practice massage therapy verifying that:

(I) The applicant has not been involved in any disciplinary action relating to his license to practice massage therapy; and

(II) Disciplinary proceedings relating to his license to practice massage therapy are not pending;

(5) Except as otherwise provided in NRS 640C.440, a complete set of 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;

(6) The names and addresses of five natural persons not related to the applicant and not business associates of the applicant who are willing to serve as character references;

(7) A statement authorizing the Board or its designee to conduct an investigation to determine the accuracy of any statements set forth in the application; and

(8) If required by the Board, a financial questionnaire; and

(c) In addition to any examination required pursuant to NRS 640C.320 and except as otherwise provided in subsection 3, pass a written examination administered by any board that is accredited by the National Commission for Certifying Agencies, or its successor organization, to examine massage therapists.

3. If the Board determines that the examinations being administered pursuant to paragraph (c) of subsection 2 are inadequately testing the knowledge and competency of applicants, the Board shall prepare or cause to be prepared its own written examination to test the knowledge and competency of applicants. Such an examination must be offered not less than four times each year. The location of the examination must alternate between Clark County and Washoe County. Upon request, the Board must provide a list of approved interpreters at the location of the examination to interpret the examination for an applicant who, as determined by the Board, requires an interpreter for the examination.

4. The Board shall recognize a program of massage therapy that is:

- (a) Approved by the Commission on Postsecondary Education; or
- (b) Offered by a public college in this State or any other state.

↪ The Board may recognize other programs of massage therapy.

5. The Board or its designee shall:

(a) Conduct an investigation to determine:

- (1) The reputation and character of the applicant;
- (2) The existence and contents of any record of arrests or convictions of the applicant;

(3) The existence and nature of any pending litigation involving the applicant that would affect his suitability for licensure; and

(4) The accuracy and completeness of any information submitted to the Board by the applicant;

(b) If the Board determines that it is unable to conduct a complete investigation, require the applicant to submit a financial questionnaire and investigate the financial background and each source of funding of the applicant;

(c) Report the results of the investigation of the applicant within the period the Board establishes by regulation pursuant to NRS 640C.320; and

(d) ~~Maintain~~ Except as otherwise provided in section 6 of this act, maintain the results of the investigation in a confidential manner for use by the Board and its members and employees in carrying out their duties pursuant to this chapter. The provisions of this paragraph do not prohibit the Board or its members or employees from communicating or cooperating with or providing any documents or other information to any other licensing board

or any other federal, state or local agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 173. NRS 640C.760 is hereby amended to read as follows:

640C.760 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

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

3. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other federal, state or local agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 174. NRS 641.090 is hereby amended to read as follows:

641.090 1. The Secretary-Treasurer shall make and keep on behalf of the Board:

- (a) A record of all its meetings and proceedings.
- (b) A record of all violations and prosecutions under the provisions of this chapter.
- (c) A record of all examinations of applicants.
- (d) A register of all licenses.
- (e) A register of all holders of licenses.
- (f) An inventory of the property of the Board and of the State in the Board's possession.

2. These records must be kept in the office of the Board and, except as otherwise provided in this section, are subject to public inspection during normal working hours upon reasonable notice.

3. ~~The~~ Except as otherwise provided in section 6 of this act, the Board may keep the personnel records of applicants confidential.

4. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

5. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all other documents and information considered by the Board when determining whether to impose discipline are public records.

6. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 175. NRS 641A.191 is hereby amended to read as follows:

641A.191 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, any records or information obtained during the course of an investigation by the Board and any record of the investigation are confidential.

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

3. This section does not prohibit the Board from communicating or cooperating with any other licensing board or agency or any agency which is investigating a licensee, including a law enforcement agency.

Sec. 176. NRS 641B.170 is hereby amended to read as follows:

641B.170 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, any records or information received by the Board relating to a licensee or an applicant for a license ~~is~~ are confidential.

2. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

3. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information considered by the Board when determining whether to impose discipline are public records.

4. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 177. NRS 641C.760 is hereby amended to read as follows:

641C.760 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

2. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 178. NRS 642.524 is hereby amended to read as follows:

642.524 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

2. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 179. NRS 643.189 is hereby amended to read as follows:

643.189 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

2. The charging document filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 180. NRS 644.446 is hereby amended to read as follows:

644.446 1. Except as otherwise provided in this section ~~644.446~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

2. The charging document filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 181. NRS 645.625 is hereby amended to read as follows:

645.625 1. Except as otherwise provided in this section ~~645.625~~ and section 6 of this act, a complaint filed with the Division alleging a violation of this chapter, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

2. 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. 182. NRS 645A.082 is hereby amended to read as follows:

645A.082 1. Except as otherwise provided in this section ~~645A.082~~ and section 6 of this act, a complaint filed with the Commissioner, all documents and other information filed with the complaint and all documents and other information compiled as a result of the investigation conducted to determine whether to initiate disciplinary action are confidential.

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

Sec. 183. NRS 645B.092 is hereby amended to read as follows:

645B.092 1. Except as otherwise provided in this section ~~645B.092~~ and section 6 of this act, a complaint filed with the Commissioner, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

2. The complaint or other document filed by the Commissioner to initiate disciplinary action and all documents and information considered by the

Commissioner when determining whether to impose discipline are public records.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 184. NRS 645C.220 is hereby amended to read as follows:

645C.220 1. The Division shall maintain a record of:

(a) Persons whose applications for a certificate, license or registration card have been denied;

(b) Investigations conducted by it which result in the initiation of formal disciplinary proceedings;

(c) Formal disciplinary proceedings; and

(d) Rulings or decisions upon complaints filed with it.

2. Except as otherwise provided in this section and NRS 645C.225, records kept in the office of the Division pursuant to this chapter are open to the public for inspection pursuant to regulations adopted by the Commission. ~~The~~ Except as otherwise provided in section 6 of this act, the Division may keep confidential, unless otherwise ordered by a court:

(a) Examinations for a certificate or license; and

(b) The criminal and financial records of an appraiser or intern, or an applicant for a certificate, license or registration card.

Sec. 185. NRS 645C.225 is hereby amended to read as follows:

645C.225 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, 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.

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. 186. NRS 645D.130 is hereby amended to read as follows:

645D.130 1. The Division shall maintain a record of:

(a) Persons from whom it receives applications for a certificate;

(b) Investigations conducted by it that result in the initiation of formal disciplinary proceedings;

(c) Formal disciplinary proceedings; and

(d) Rulings or decisions upon complaints filed with it.

2. Except as otherwise provided in this section and NRS 645D.135, records kept in the office of the Division pursuant to this chapter are open to the public for inspection pursuant to regulations adopted by the Division. The Division shall keep confidential, except as otherwise provided in section 6 of this act or unless otherwise ordered by a court, the criminal and financial records of an inspector or of an applicant for a certificate.

Sec. 187. NRS 645D.135 is hereby amended to read as follows:

645D.135 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, 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.

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. 188. NRS 645E.375 is hereby amended to read as follows:

645E.375 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Commissioner, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

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

Sec. 189. NRS 648.033 is hereby amended to read as follows:

648.033 1. The Board shall maintain a public record of:

(a) The business it transacts at its regular and special meetings; and
(b) The applications received by it together with the record of the disposition of each application.

2. ~~Information~~ Except as otherwise provided in section 6 of this act, information obtained by the Board from other than public sources concerning the:

(a) Financial condition; or

(b) Criminal record,

↪ of an applicant or a licensee is confidential and may be revealed only to the extent necessary for the proper administration of the provisions of this chapter.

3. The Board may release information described in subsection 2 to an agency of the Federal Government, of a state or of a political subdivision of this State.

4. The Board shall adopt by regulation a procedure for notifying the applicant or licensee of the release of confidential information pursuant to subsections 2 and 3. The Board shall release information described in subsection 2 concerning an applicant or licensee to the applicant or licensee upon request.

5. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person

submits a written statement to the Board requesting that such documents and information be made public records.

6. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all other documents and information considered by the Board when determining whether to impose discipline are public records.

7. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 190. NRS 649.067 is hereby amended to read as follows:

649.067 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Commissioner, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

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

Sec. 191. NRS 652.228 is hereby amended to read as follows:

652.228 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

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

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 192. NRS 654.110 is hereby amended to read as follows:

654.110 1. In a manner consistent with the provisions of chapter 622A of NRS, the Board shall:

(a) Develop, impose and enforce standards which must be met by persons to receive licenses as nursing facility administrators or administrators of residential facilities for groups. The standards must be designed to ensure that nursing facility administrators or persons acting as administrators of residential facilities for groups will be persons who are of good character and otherwise suitable, and who, by training or experience in their respective fields of administering health care facilities, are qualified to serve as nursing facility administrators or administrators of residential facilities for groups.

(b) Develop and apply appropriate techniques, including examinations and investigations, for determining whether a person meets those standards.

(c) Issue licenses to persons determined, after the application of appropriate techniques, to meet those standards.

(d) Revoke or suspend licenses previously issued by the Board in any case if the person holding the license is determined substantially to have failed to conform to the requirements of the standards.

(e) Establish and carry out procedures designed to ensure that persons licensed as nursing facility administrators or administrators of residential facilities for groups will, during any period they serve as such, comply with the requirements of the standards.

(f) Receive, investigate and take appropriate action with respect to any charge or complaint filed with the Board to the effect that any person licensed as a nursing facility administrator or an administrator of a residential facility for groups has failed to comply with the requirements of the standards. The Board shall initiate an investigation of any charge or complaint filed with the Board within 30 days after receiving the charge or complaint.

(g) Conduct a continuing study of:

(1) Facilities for skilled nursing, facilities for intermediate care and their administrators; and

(2) Residential facilities for groups and their administrators,
➔ with a view to the improvement of the standards imposed for the licensing of administrators and of procedures and methods for the enforcement of the standards.

(h) Conduct or approve, or both, a program of training and instruction designed to enable all persons to obtain the qualifications necessary to meet the standards set by the Board for qualification as a nursing facility administrator or an administrator of a residential facility for groups.

2. Except as otherwise provided in this section, all records kept by the Board, not otherwise privileged or confidential, are public records.

3. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

4. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all other documents and information considered by the Board when determining whether to impose discipline are public records.

5. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 193. NRS 656.105 is hereby amended to read as follows:

656.105 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

2. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and information considered by the Board when determining whether to impose discipline are public records.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 194. NRS 671.170 is hereby amended to read as follows:

671.170 1. The Commissioner may conduct any necessary investigations and hearings to determine whether any licensee or other person has violated any of the provisions of this chapter or whether any licensee has conducted himself in a manner which requires the suspension, revocation or denial of renewal of his license.

2. In conducting any investigation or hearing pursuant to this chapter, the Commissioner, or any person designated by him, may require the attendance and testimony of any person and compel the production of all relevant books, records, accounts and other documents. The cost of any examination or investigation, not to exceed \$10 an hour, must be borne by the licensee.

3. The Commissioner may require any licensee to submit such reports concerning his business as the Commissioner deems necessary for the enforcement of this chapter.

4. ~~All~~ Except as otherwise provided in section 6 of this act, all reports of investigations and examinations and other reports rendered pursuant to this section, and all correspondence and memoranda relating to or arising therefrom, including any authenticated copies thereof in the possession of any licensee or the Commissioner, are confidential communications, are not subject to any subpoena, and must not be made public unless the Commissioner determines that justice and the public advantage will be served by their publication. This subsection does not preclude any party to an administrative or judicial proceeding from introducing into evidence any information or document otherwise available or admissible.

Sec. 195. NRS 673.430 is hereby amended to read as follows:

673.430 1. Each association doing business in this State shall file annually with the Commissioner on or before March 1, a sworn statement in two sections.

2. One section of the annual report must contain, in such form and detail as the Commissioner may prescribe, the following:

(a) The amount of authorized capital by classes and the par value of each class of stock.

(b) A statement of its assets, liabilities and capital accounts as of the immediately preceding December 31.

(c) Any other facts which the Commissioner requires.

↪ This section must be furnished in duplicate, one certified copy to be returned for publication at least two times in a newspaper having a general circulation in each county in which the association maintains an office. Publication must be completed on or before May 1, and proof of publication must be filed in the Office of the Commissioner.

3. One section of the annual report must contain such other information as the Commissioner may require to be furnished. This section need not be published and ~~[must]~~, except as otherwise provided in section 6 of this act, must be treated as confidential by the Commissioner.

4. The Commissioner may impose and collect a fee of not more than \$10 for each day the annual report is overdue. The Commissioner shall adopt regulations establishing the amount of the fee that may be imposed pursuant to this subsection. Every association shall pay to the Commissioner for supervision and examination a fee based on the rate established pursuant to NRS 658.101.

5. All sums received by the Commissioner pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 196. NRS 679B.152 is hereby amended to read as follows:

679B.152 1. Every insurer or organization for dental care which pays claims on the basis of fees for medical or dental care which are "usual and customary" shall submit to the Commissioner a complete description of the method it uses to determine those fees. ~~[This]~~ Except as otherwise provided in section 6 of this act, this information must be kept confidential by the Commissioner. The fees determined by the insurer or organization to be the usual and customary fees for that care are subject to the approval of the Commissioner as being the usual and customary fees in that locality. The provisions of this subsection apply to medical or dental care provided to a claimant under any contract of insurance.

2. Any contract for group, blanket or individual health insurance and any contract issued by a nonprofit hospital, medical or dental service corporation or organization for dental care, which provides a plan for dental care to its insureds or members which limits their choice of a dentist, under the plan to those in a preselected group, must offer its insureds or members the option of selecting a plan of benefits which does not restrict the choice of a dentist.

The selection of that option does not entitle the insured or member to any increase in contributions by his employer or other organization toward the premium or cost of the optional plan over that contributed under the restricted plan.

Sec. 197. NRS 679B.159 is hereby amended to read as follows:

679B.159 1. Every insurer, agent, solicitor, broker, administrator or other person who has knowledge of a violation of any provision of this Code shall promptly report the facts and circumstances pertaining to the violation to the Commissioner.

2. ~~##~~ Except as otherwise provided in section 6 of this act, if a person who submits information pursuant to subsection 1 so requests, the Commissioner shall keep the person's name and the information confidential.

Sec. 198. NRS 679B.190 is hereby amended to read as follows:

679B.190 1. The Commissioner shall carefully preserve in the Division and in permanent form all papers and records relating to the business and transactions of the Division and shall hand them over to his successor in office.

2. Except as otherwise provided in subsections 3 and 5 to 9, inclusive, other provisions of this Code and NRS 616B.015, the papers and records must be open to public inspection.

3. ~~Any~~ Except as otherwise provided in section 6 of this act, any records or information in the possession of the Division related to an investigation conducted by the Commissioner ~~is~~ are confidential unless:

(a) The Commissioner releases, in the manner that he deems appropriate, all or any part of the records or information for public inspection after determining that the release of the records or information:

(1) Will not harm his investigation or the person who is being investigated; or

(2) Serves the interests of a policyholder, the shareholders of the insurer or the public; or

(b) A court orders the release of the records or information after determining that the production of the records or information will not damage any investigation being conducted by the Commissioner.

4. The Commissioner may destroy unneeded or obsolete records and filings in the Division in accordance with provisions and procedures applicable in general to administrative agencies of this State.

5. The Commissioner may classify as confidential:

(a) Specified records and information obtained from a governmental agency; and

(b) Documents obtained or received from other sources upon the express condition that they remain confidential.

6. All information and documents in the possession of the Division or any of its employees which are related to cases or matters under investigation by the Commissioner or his staff are confidential for the period of the investigation and may not be made public unless the Commissioner finds the

existence of an imminent threat of harm to the safety or welfare of the policyholder, shareholders or the public and determines that the interests of the policyholder, shareholders or the public will be served by publication thereof, in which event he may make a record public or publish all or any part of the record in any manner he deems appropriate.

7. The Commissioner may classify as confidential the records of a consumer or information relating to a consumer to protect the health, welfare or safety of the consumer.

8. In performing his duties, the Commissioner may:

(a) Share documents, materials or other information, including any documents, materials or information classified as confidential, with other state, federal and international regulatory or law enforcement agencies or with the National Association of Insurance Commissioners and its affiliates and subsidiaries if the recipient agrees to maintain the confidentiality and privileged status of the documents, materials or other information.

(b) May receive documents, materials or other information, including any documents, materials or information otherwise confidential and privileged, from other state, federal and international regulatory or law enforcement agencies or from the National Association of Insurance Commissioners and its affiliates and subsidiaries, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the law of the jurisdiction from which it was received.

(c) Enter into agreements, consistent with this subsection, governing the sharing and use of information.

9. No waiver of confidentiality or privilege with respect to any document, material or information occurs as a result of disclosure to the Commissioner under this section or of sharing as authorized under this chapter.

Sec. 199. NRS 679B.285 is hereby amended to read as follows:

679B.285 1. The Commissioner may disclose the content of a report, preliminary report, or the results of an examination, or any matter relating thereto, to the Division or any agency of any other state or country that regulates insurance, or to law enforcement officers of this or any other state, or to an agency of the Federal Government at any time, if the agency or office receiving the report or matter relating thereto agrees in writing to hold it confidential in a manner consistent with this chapter. Access may also be granted to the National Association of Insurance Commissioners.

2. All working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the Commissioner or any other person in the course of an examination made under this chapter are confidential, are not subject to subpoena, and may not be made public by the Commissioner or any other person, except as necessary for a hearing or as provided in this section and subsection 4 of NRS 679B.282, ~~and~~ and section 6 of this act. A person to whom information is given must agree in writing

before receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the insurer to which it pertains has been obtained.

Sec. 200. NRS 679B.690 is hereby amended to read as follows:

679B.690 1. ~~[(a)]~~ *Except as otherwise provided in section 6 of this act, all* records and other information related to an investigation conducted by the Attorney General and the Fraud Control Unit for the prosecution of insurance fraud are confidential unless:

(a) The Attorney General releases, in such manner as he deems appropriate, all or any part of the records or information for public inspection after determining that the release of the records or information:

(1) Will not harm the investigation or the person who is being investigated; or

(2) Serves the interests of a policyholder, the shareholders of the insurer or the public; or

(b) A court orders the release of the records or information after determining that the production of the records or information will not damage any investigation being conducted by the Fraud Control Unit.

2. The Attorney General may classify as confidential specific records and other information if the records or other information was obtained from a governmental agency or other source upon the express condition that the contents would remain confidential.

3. All information and documents in the possession of the Attorney General and the Fraud Control Unit that are related to cases or matters under investigation are confidential for the duration of the investigation and may not be made public unless the Attorney General finds the existence of an imminent threat of harm to the safety or welfare of the policyholder, shareholders or the public and determines that the interests of the policyholder, shareholders or the public will be served by publication thereof, in which event he may make a record public or publish all or any part of the record in any manner he deems appropriate.

Sec. 201. NRS 680A.270 is hereby amended to read as follows:

680A.270 1. Each authorized insurer shall annually on or before March 1, or within any reasonable extension of time therefor which the Commissioner for good cause may have granted on or before that date, file with the Commissioner a full and true statement of its financial condition, transactions and affairs as of December 31 preceding. The statement must be:

(a) In the general form and context of, and require information as called for by, an annual statement as is currently in general and customary use in the United States for the type of insurer and kinds of insurance to be reported upon, with any useful or necessary modification or adaptation thereof, supplemented by additional information required by the Commissioner;

(b) Prepared in accordance with:

(1) The Annual Statement Instructions for the type of insurer to be reported on as adopted by the National Association of Insurance Commissioners for the year in which the insurer files the statement; and

(2) The Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners and effective on January 1, 2001, and as amended by the National Association of Insurance Commissioners after that date; and

(c) Verified by the oath of the insurer's president or vice president and secretary or actuary, as applicable, or, in the absence of the foregoing, by two other principal officers, or if a reciprocal insurer, by the oath of the attorney-in-fact, or its like officers if a corporation.

2. The statement of an alien insurer must be verified by its United States manager or other officer who is authorized to do so, and may relate only to the insurer's transactions and affairs in the United States unless the Commissioner requires otherwise. If the Commissioner requires a statement as to the insurer's affairs throughout the world, the insurer shall file the statement with the Commissioner as soon as reasonably possible.

3. The Commissioner may refuse to continue, or may suspend or revoke, the certificate of authority of any insurer failing to file its annual statement when due.

4. At the time of filing, the insurer shall pay the fee for filing its annual statement as prescribed by NRS 680B.010.

5. The Commissioner may adopt regulations requiring each domestic, foreign and alien insurer which is authorized to transact insurance in this state to file the insurer's annual statement with the National Association of Insurance Commissioners or its successor organization.

6. ~~6. All~~ Except as otherwise provided in section 6 of this act, all ratios of financial analyses and synopses of examinations concerning insurers that are submitted to the Division by the National Association of Insurance Commissioners' Insurance Regulatory Information System are confidential and may not be disclosed by the Division.

Sec. 202. NRS 681A.440 is hereby amended to read as follows:

681A.440 1. The Commissioner may refuse to issue a license to act as an intermediary if, in his judgment:

(a) The applicant, anyone named on the application, or any member, principal, officer or director of the applicant, is not trustworthy to act as an intermediary;

(b) Any controlling person of the applicant is not trustworthy to act as an intermediary;

(c) The applicant, a person named on the application, any member, principal, officer or director of the applicant or any controlling person of the applicant has given cause for the revocation or suspension of a license to act as an intermediary; or

(d) The applicant, a person named on the application, any member, principal, officer or director of the applicant or any controlling person of the

applicant has failed to comply with any prerequisite for the issuance of a license to act as an intermediary.

2. Upon receipt of a written request, the Commissioner shall furnish a summary of the basis for his refusal to issue a license to act as an intermediary. ~~The~~ Except as otherwise provided in section 6 of this act, the summary is confidential.

Sec. 203. NRS 681B.260 is hereby amended to read as follows:

681B.260 1. Except as otherwise provided in this section ~~and~~ and section 6 of this act, an opinion, and any other material provided by an insurer to the Commissioner in connection therewith, must be kept confidential by the Commissioner, is not open to the public, and is not subject to subpoena, except for the purpose of defending an action seeking damages from any person by reason of any action required by NRS 681B.200 to 681B.260, inclusive, or by regulation adopted under those sections.

2. A memorandum or other material may be released by the Commissioner with the written consent of the insurer or to the American Academy of Actuaries or its successor organization upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the Commissioner for preserving the confidentiality of the memorandum or other material.

3. If any portion of a confidential memorandum is cited by the insurer in its marketing or is cited before any governmental agency other than a state commissioner of insurance or is released by an insurer to the public, all portions of the memorandum are no longer confidential.

Sec. 204. NRS 681B.280 is hereby amended to read as follows:

681B.280 Each insurer shall report to the Commissioner every material acquisition or disposition of assets within 15 days after the end of the month in which the transaction occurs. The Commissioner shall define by regulation what transactions are material, prescribe what information must be reported and specify any person to whom a copy must be sent. ~~Such~~ Except as otherwise provided in section 6 of this act, such a report is confidential and is not subject to subpoena.

Sec. 205. NRS 683A.0873 is hereby amended to read as follows:

683A.0873 1. Each administrator shall maintain at his principal office adequate books and records of all transactions between himself, the insurer and the insured. The books and records must be maintained in accordance with prudent standards of recordkeeping for insurance and with regulations of the Commissioner for a period of 5 years after the transaction to which they respectively relate. After the 5-year period, the administrator may remove the books and records from the State, store their contents on microfilm or return them to the appropriate insurer.

2. The Commissioner may examine, audit and inspect books and records maintained by an administrator under the provisions of this section to carry out the provisions of NRS 679B.230 to 679B.300, inclusive.

3. The names and addresses of insured persons and any other material which is in the books and records of an administrator are confidential except as otherwise provided in section 6 of this act and except when used in proceedings against the administrator.

4. The insurer may inspect and examine all books and records to the extent necessary to fulfill all contractual obligations to insured persons, subject to restrictions in the written agreement between the insurer and administrator.

Sec. 206. NRS 686A.289 is hereby amended to read as follows:

686A.289 1. Any insurer giving information to the Attorney General, the Commissioner or any investigative or law enforcement agency concerning an act or omission alleged to be insurance fraud is entitled to receive, upon completion of the investigation or prosecution of the insurance fraud, whichever occurs later, any relevant information concerning the fraudulent activity.

2. The Attorney General, the Commissioner or any investigative or law enforcement agency receiving information from another person, agency or insurer shall:

(a) Keep the information confidential and not release the information except pursuant to subsection 1 ~~1.4~~ and section 6 of this act;

(b) Provide information concerning its investigation of the insurance fraud to the insurer reporting the fraudulent activity upon the completion of its investigation or a criminal prosecution, whichever occurs later; and

(c) Provide any documents necessary or allow its employees or agents to testify in any action by or against the insurer if the insurer or its insured furnished the information for the investigation or a criminal prosecution.

Sec. 207. NRS 687A.115 is hereby amended to read as follows:

687A.115 To aid in the detection and prevention of insurer insolvencies:

1. The Commissioner may:

(a) Notify the insurance commissioners of the other states and territories of the United States and of the District of Columbia when he revokes or suspends a license, or when he makes any formal order that a company restrict its writing of insurance, obtain additional contributions to surplus, withdraw from the state or reinsure any part of its business or any other account for the security of policyholders or creditors.

(b) Report to the Board of Directors any action set forth in paragraph (a) and the receipt of a report from another insurance commissioner indicating that the action has been taken elsewhere. The report shall contain all significant details of the action taken or the report received.

(c) Report to the Board of Directors when he has reasonable cause to believe from any examination of any member insurer, whether completed or in process, that the member insurer may be insolvent or in a financial condition hazardous to the interests of policyholders or the public.

(d) Furnish to the Board of Directors the early warning tests developed by the National Association of Insurance Commissioners. The Board may use

the information furnished to carry out its duties. ~~[[The]]~~ Except as otherwise provided in section 6 of this act, the report and the information contained therein is not a public record and shall be kept confidential by the Board of Directors until it is made public by the Commissioner or other lawful authority.

2. The Commissioner may seek the advice and recommendations of the Board of Directors concerning any matter affecting his duties and responsibilities relating to the financial condition of member insurers and of insurers seeking admission to transact business in this state.

Sec. 208. NRS 688C.480 is hereby amended to read as follows:

688C.480 1. ~~[[A]]~~ Except as otherwise provided in section 6 of this act, a document or information furnished pursuant to NRS 688C.470 or obtained by the Commissioner in an investigation of an actual or suspected violation of NRS 688C.450 is confidential and privileged, is not a public record and is not subject to discovery or subpoena in a civil action or criminal prosecution.

2. Subsection 1 does not prohibit the Commissioner from disclosing documents or evidence so furnished or obtained:

(a) In an administrative or judicial proceeding to enforce a statute administered by him;

(b) To another federal, state or local law enforcement or regulatory officer, another person involved in the prevention or detection of violations of NRS 688C.450, or similar offenses, or the National Association of Insurance Commissioners; or

(c) To a person engaged in the business of viatical settlements who is aggrieved by the violation.

3. Disclosure of a document or evidence under subsection 2 does not abrogate or modify the privilege covering it under subsection 1.

Sec. 209. NRS 688C.490 is hereby amended to read as follows:

688C.490 1. Each licensee under this chapter shall establish and maintain protective measures against fraud which are reasonably calculated to prevent, detect and assist in the prosecution of violations of NRS 688C.450. The Commissioner may order, or a licensee may request and the Commissioner may approve, modifications of the measures otherwise required under this section, more or less restrictive than those measures, as necessary to protect against fraud. Required measures are employment of or contracting with investigators and submission of a plan to the Commissioner which includes:

(a) A description of the procedures for detecting and investigating possible violations of NRS 688C.450 and for resolving inconsistencies between medical records and applications for insurance;

(b) A description of the procedures for reporting possible violations to the Commissioner;

(c) A description of the plan for educating and training underwriters and other personnel against fraud; and

(d) A description or chart of the organizational arrangement of the personnel responsible for detecting and investigating possible violations of NRS 688C.450 and for resolving inconsistencies between medical records and applications for insurance.

2. ~~[A]~~ Except as otherwise provided in section 6 of this act, a plan submitted to the Commissioner pursuant to subsection 1 is privileged and confidential, not a public record and not subject to discovery or subpoena in a civil action or criminal prosecution.

Sec. 210. NRS 692A.117 is hereby amended to read as follows:

692A.117 1. The Commissioner shall classify as confidential the financial statements of a title agent, escrow officer and title insurer and those records and information obtained by the Division which:

(a) Are obtained from a governmental agency upon the express condition that they remain confidential.

(b) Consist of information compiled by the Division in the investigation of possible violations of this chapter. This paragraph does not limit examination by the Legislative Auditor or any other person pursuant to a court order.

2. ~~[The]~~ Except as otherwise provided in section 6 of this act, the contents of the file for an escrow are confidential and, subject to the rights to discover the contents by subpoena or other lawful process, must not be disclosed without the express written consent of one party of the escrow other than the holder of the escrow.

Sec. 211. NRS 692C.420 is hereby amended to read as follows:

692C.420 1. ~~[All]~~ Except as otherwise provided in section 6 of this act, all information, documents and copies thereof obtained by or disclosed to the Commissioner or any other person in the course of an examination or investigation made pursuant to NRS 692C.410, and all information reported pursuant to NRS 692C.260 to 692C.350, inclusive, must be given confidential treatment and is not subject to subpoena and must not be made public by the Commissioner or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the Commissioner, after giving the insurer and its affiliates who would be affected thereby notice and an opportunity to be heard, determines that the interests of policyholders, shareholders or the public will be served by the publication thereof, in which event he may publish all or any part thereof in any manner as he may deem appropriate.

2. The Commissioner or any person who receives any documents, materials or other information while acting under the authority of the Commissioner must not be permitted or required to testify in a private civil action concerning any information, document or copy thereof specified in subsection 1.

3. The Commissioner may share or receive any information, document or copy thereof specified in subsection 1 in accordance with NRS 679B.122. The sharing or receipt of the information, document or copy pursuant to this

subsection does not waive any applicable privilege or claim of confidentiality in the information, document or copy.

Sec. 212. NRS 693A.480 is hereby amended to read as follows:

693A.480 1. Except as otherwise provided in subsection 2, ~~and~~ section 6 of this act, all information and documents obtained by or disclosed to the Commissioner or any other person in the course of preparing, filing and processing an application of a converting mutual, other than information and documents distributed to policyholders in connection with the meeting of policyholders pursuant to NRS 693A.460 or filed or submitted as evidence in connection with the public hearing pursuant to NRS 693A.450, are confidential and not subject to subpoena, and must not be made public by the Commissioner, the National Association of Insurance Commissioners or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which such information and documents pertain.

2. If the Commissioner, after giving the insurer and its affiliates who would be affected notice and opportunity to be heard, determines that the interests of policyholders, shareholders or the public will be best served by the publication of such information and documents, the Commissioner may publish all or any part thereof in such a manner as he determines appropriate.

Sec. 213. NRS 693A.615 is hereby amended to read as follows:

693A.615 1. Except as otherwise provided in subsection 2, ~~and~~ section 6 of this act, all information and documents obtained by or disclosed to the Commissioner or any other person in the course of preparing, filing and processing an application to reorganize pursuant to NRS 693A.580, other than information and documents distributed to policyholders in connection with the meeting of policyholders pursuant to NRS 693A.595 or filed or submitted as evidence in connection with the public hearing pursuant to NRS 693A.585, are confidential and not subject to subpoena, and must not be made public by the Commissioner, the National Association of Insurance Commissioners or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which such information and documents pertain.

2. If the Commissioner, after giving the insurer and its affiliates who would be affected notice and opportunity to be heard, determines that the interests of policyholders, shareholders or the public will be best served by the publication of such information and documents, the Commissioner may publish all or any part thereof in such a manner as he determines appropriate.

Sec. 214. NRS 696B.550 is hereby amended to read as follows:

696B.550 1. The Commissioner shall hold all hearings in summary proceedings privately unless the insurer requests a public hearing, in which case the hearing must be public.

2. The court may hold all hearings in summary proceedings and judicial reviews thereof privately in chambers, and shall do so on request of the insurer proceeded against.

3. In all summary proceedings and judicial reviews thereof, all records of the insurer, other documents and all Division files and court records and papers, so far as they pertain to or are part of the record of the summary proceedings, are confidential except as otherwise provided in section 6 of this act and except as necessary to obtain compliance therewith, unless the court after hearing arguments by the parties in chambers, orders otherwise, or unless the insurer requests that the matter be made public. Until the court otherwise orders, all papers filed with the clerk of the court must be held by him in a confidential file.

4. If at any time it appears to the court that any person whose interest is or will be substantially affected by an order did not appear at the hearing and has not been served, the court may order that notice be given and the proceedings be adjourned to give the person an opportunity to appear, on such terms as may be reasonable and just.

Sec. 215. NRS 704B.320 is hereby amended to read as follows:

704B.320 1. For eligible customers whose loads are in the service territory of an electric utility that primarily serves densely populated counties, the aggregate amount of energy that all such eligible customers purchase from providers of new electric resources before July 1, 2003, must not exceed 50 percent of the difference between the existing supply of energy generated in this State that is available to the electric utility and the existing demand for energy in this State that is consumed by the customers of the electric utility, as determined by the Commission.

2. An eligible customer that is a nongovernmental commercial or industrial end-use customer whose load is in the service territory of an electric utility that primarily serves densely populated counties shall not purchase energy, capacity or ancillary services from a provider of new electric resources unless, as part of the proposed transaction, the eligible customer agrees to:

(a) Contract with the provider to purchase:

(1) An additional amount of energy which is equal to 10 percent of the total amount of energy that the eligible customer is purchasing for its own use under the proposed transaction and which is purchased at the same price, terms and conditions as the energy purchased by the eligible customer for its own use; and

(2) The capacity and ancillary services associated with the additional amount of energy at the same price, terms and conditions as the capacity and ancillary services purchased by the eligible customer for its own use; and

(b) Offers to assign the rights to the contract to the electric utility for use by the remaining customers of the electric utility.

3. If an eligible customer is subject to the provisions of subsection 2, the eligible customer shall include with its application filed pursuant to NRS 704B.310 all information concerning the contract offered to the electric utility that is necessary for the Commission to determine whether it is in the best interest of the remaining customers of the electric utility for the electric

utility to accept the rights to the contract. Such information must include, without limitation, the amount of the energy and capacity to be purchased under the contract, the price of the energy, capacity and ancillary services and the duration of the contract.

4. Notwithstanding any specific statute to the contrary, information concerning the price of the energy, capacity and ancillary services and any other terms or conditions of the contract that the Commission determines are commercially sensitive:

(a) Must not be disclosed by the Commission except to the Regulatory Operations Staff of the Commission, the Consumer's Advocate and his staff and the electric utility for the purposes of carrying out the provisions of this section; and

(b) ~~(b) Shall~~ *Except as otherwise provided in section 6 of this act, shall* be deemed to be confidential for all other purposes, and the Commission shall take such actions as are necessary to protect the confidentiality of such information.

5. If the Commission determines that the contract:

(a) Is not in the best interest of the remaining customers of the electric utility, the electric utility shall not accept the rights to the contract, and the eligible customer is entitled to all rights to the contract.

(b) Is in the best interest of the remaining customers of the electric utility, the electric utility shall accept the rights to the contract and the eligible customer shall assign all rights to the contract to the electric utility. A contract that is assigned to the electric utility pursuant to this paragraph shall be deemed to be an approved part of the resource plan of the electric utility and a prudent investment, and the electric utility may recover all costs for the energy, capacity and ancillary services acquired pursuant to the contract. To the extent practicable, the Commission shall take actions to ensure that the electric utility uses the energy, capacity and ancillary services acquired pursuant to each such contract only for the benefit of the remaining customers of the electric utility that are not eligible customers, with a preference for the remaining customers of the electric utility that are residential customers with small loads.

6. The provisions of this section do not exempt the electric utility, in whole or in part, from the requirements imposed on the electric utility pursuant to NRS 704.7801 to 704.7828, inclusive, to comply with its portfolio standard. The Commission shall not take any actions pursuant to this section that conflict with or diminish those requirements.

Sec. 216. NRS 704B.325 is hereby amended to read as follows:

704B.325 1. An eligible customer that is purchasing energy, capacity or ancillary services from a provider of new electric resources may purchase energy, capacity or ancillary services from an alternative provider without obtaining the approval of the Commission if the terms and conditions of the transaction with the alternative provider, other than the price of the energy, capacity or ancillary services, conform to the terms and conditions of the

transaction that was originally approved by the Commission with respect to the eligible customer.

2. If any terms and conditions of the transaction with the alternative provider, other than the price of the energy, capacity or ancillary services, do not conform to the terms and conditions of the transaction that was originally approved by the Commission with respect to the eligible customer, the eligible customer must obtain approval from the Commission before those nonconforming terms and conditions are enforceable.

3. If the eligible customer files a request with the Commission for approval of any nonconforming terms and conditions, the Commission shall review and make a determination concerning the request on an expedited basis.

4. Notwithstanding any specific statute to the contrary, information concerning any terms and conditions of the transaction with the alternative provider that the Commission determines are commercially sensitive:

(a) Must not be disclosed by the Commission except to the Regulatory Operations Staff of the Commission, the Consumer's Advocate and his staff and the affected electric utility for the purposes of carrying out the provisions of this section; and

(b) ~~shall~~ Except as otherwise provided in section 6 of this act, shall be deemed to be confidential for all other purposes, and the Commission shall take such actions as are necessary to protect the confidentiality of such information.

Sec. 217. NRS 710.159 is hereby amended to read as follows:

710.159 1. If, at the primary, general or special election, it is shown that a majority of the ballots cast favors the sale or lease of the telephone system, the board of county commissioners shall contract with a reputable and qualified expert in rural telecommunications to appraise the value of the telephone system. ~~The~~ Except as otherwise provided in section 6 of this act, the appraisal is confidential and must not be disclosed before the completion of the sale or lease of the telephone system.

2. Upon the return of the appraisal, the board of county commissioners shall advertise the sale or lease, for a term of years agreed upon by the board, of the telephone system by notice published at least once a week for 5 consecutive weeks by five weekly insertions a week apart in a newspaper published within the county and having a general circulation therein. After publication of the first such notice, the board or its authorized representatives may enter into negotiations for the sale or lease of the telephone system. If the notice is for the sale of the telephone system, the board shall not accept a sum less than the amount of the appraisal of the telephone system. If the notice is for the lease of the telephone system, the board shall not accept a sum less than an amount to realize not less than 7 percent per annum upon the value of the telephone system as so appraised. If the telephone system is leased, the board shall safeguard the county's interest by demanding a bond

for the faithful performance of the covenants contained in the lease. The board may reject any and all offers made for such a sale or lease.

~~[Sec. 10.]~~ *Sec. 218. 1. ~~[For]~~ Except as otherwise provided in this subsection, for the purposes of section 6 of this act, a person may ~~[not]~~ apply to a district court ~~[before]~~ on or after October 1, ~~[2017,]~~ 2007, for an order directing a governmental entity to allow the person to inspect or copy a public book or record, or a part thereof, ~~[regardless of whether]~~ if the public book or record ~~[will have]~~ has been in the legal custody or control of a governmental entity for a period of ~~[10]~~ 30 years or more ~~[before that]~~ on the date ~~[]~~ of the application. A person may apply to the district court on or after October 1, 2007, for an order directing a governmental entity to allow the person to inspect or copy a public book or record that pertains to a natural person if, on the date of the application, the public book or record has been in the legal custody or control of a governmental entity for a period of 30 years or more or the natural person has died, whichever is later.*

2. As used in this section, "governmental entity" has the meaning ascribed to it in NRS 239.005, as amended by section 7 of this act.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 172.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 432.

"SUMMARY—Proposes to exempt sales of certain durable medical equipment, mobility-enhancing equipment, hearing aids and hearing-aid accessories from sales and use taxes and analogous taxes. (BDR 32-865)"

"AN ACT relating to taxes on retail sales; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption from the tax for certain durable medical equipment and mobility-enhancing equipment; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption from the tax for hearing aids and hearing-aid accessories; providing for such an exemption from certain analogous taxes if the voters approve ~~[the]~~ such an amendment to the Sales and Use Tax Act of 1955; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law creates the Sales and Use Tax Act of 1955, which was approved by the voters in a referendum on November 6, 1956. (Chapter 372 of NRS) Under existing law, if the voters approve a statute or resolution in a referendum, the statute or resolution is the law of the State and may not be

amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people. (Nev. Const. Art. 19, § 1)

Existing law creates the Local School Support Tax Law. (Chapter 374 of NRS) Any amendment to the Local School Support Tax Law is also applicable to other sales and use taxes imposed under existing law. (NRS 354.705, 374A.020, 376A.060, 377.040, 377A.030, 377B.110 and 543.600 and various special and local acts)

~~[This bill requires]~~ Sections 1-8 of this bill require that a question be submitted to the voters at the 2008 General Election on whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption for durable medical equipment and mobility-enhancing equipment prescribed by a licensed provider of health care.

~~[This]~~ Section 21 of this bill amends the Local School Support Tax Law to provide an exemption for durable medical equipment and mobility-enhancing equipment prescribed by a licensed provider of health care.

The exemptions from sales and use taxes for durable medical equipment and mobility-enhancing equipment become effective on January 1, 2009, only if the voters approve the amendment to the Sales and Use Tax Act of 1955 at the General Election in 2008.

Sections 9-16 of this bill require that a question be submitted to the voters at the 2008 General Election on whether the Sales and Use Tax Act of 1955 should be amended to provide an exemption for hearing aids and hearing-aid accessories.

Section 22 of this bill amends the Local School Support Tax Law to provide an exemption for hearing aids and hearing-aid accessories.

The exemptions from sales and use taxes for hearing aids and hearing-aid accessories become effective on January 1, 2009, only if the voters approve the amendment to the Sales and Use Tax Act of 1955 at the General Election in 2008.

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

Section 1. At the General Election on November 4, 2008, a proposal must be submitted to the registered voters of this State to amend the Sales and Use Tax Act, which was enacted by the 47th Session of the Legislature of the State of Nevada and approved by the Governor in 1955, and subsequently approved by the people of this State at the General Election held on November 6, 1956.

Sec. 2. At the time and in the manner provided by law, the Secretary of State shall transmit the proposed act to the several county clerks, and the county clerks shall cause it to be published and posted as provided by law.

Sec. 3. The proclamation and notice to the voters given by the county clerks pursuant to law must be in substantially the following form:

Notice is hereby given that at the General Election on November 4, 2008, a question will appear on the ballot for the adoption

or rejection by the registered voters of the State of the following proposed act:

"AN ACT to amend an Act entitled "An Act to provide revenue for the State of Nevada; providing for sales and use taxes; providing for the manner of collection; defining certain terms; providing penalties for violation, and other matters properly relating thereto." "approved March 29, 1955, as amended.

THE PEOPLE OF THE STATE OF NEVADA

DO ENACT AS FOLLOWS:

Section 1. Section 56.1 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, as added by chapter 306, Statutes of Nevada 1969, at page 532, and amended by chapter 627, Statutes of Nevada 1985, at page 2028, and amended by chapter 404, Statutes of Nevada 1995, at page 1007, is hereby amended to read as follows:

Sec. 56.1. 1. There are exempted from the taxes imposed by this act the gross receipts from sales and the storage, use or other consumption of:

(a) Prosthetic devices, orthotic appliances and ambulatory casts for human use, and other supports and casts if prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

(b) Appliances and supplies relating to an ostomy.

(c) Products for hemodialysis ~~if~~ and durable medical equipment if prescribed by a licensed provider of health care acting within his scope of practice.

(d) ~~Mobility-enhancing~~ Canes, crutches, manual or motorized wheelchairs or scooters that enhance the ability of a person to move, and other mobility-enhancing equipment if prescribed by a licensed provider of health care acting within his scope of practice.

(e) Medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe medicines, and dispensed on a prescription filled by a registered pharmacist in accordance with law;

(2) Furnished by a licensed physician, dentist or podiatric physician to his own patient for the treatment of the patient;

(3) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, dentist or podiatric physician; or

(4) Sold to a licensed physician, dentist, podiatric physician or hospital for the treatment of a human being.

2. As used in this section:

(a) "Medicine" means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease or

affliction of the human body and which is commonly recognized as a substance or preparation intended for such use. The term includes splints, bandages, pads, compresses and dressings.

(b) "Medicine" does not include:

(1) Any auditory, ophthalmic or ocular device or appliance.

(2) Articles which are in the nature of instruments, crutches, canes, devices or other mechanical, electronic, optical or physical equipment.

(3) Any alcoholic beverage, except where the alcohol merely provides a solution in the ordinary preparation of a medicine.

(4) Braces or supports, other than those prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

3. Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on a prescription within the meaning of this section.

Sec. 2. This act becomes effective on January 1, 2009.

Sec. 4. The ballot page assemblies and the paper ballots to be used in voting on the question must present the question in substantially the following form:

Shall the Sales and Use Tax Act of 1955 be amended to provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of durable medical equipment and mobility-enhancing equipment prescribed by a licensed provider of health care?

Yes ☐ No ☐

Sec. 5. The explanation of the question which must appear on each paper ballot and sample ballot and in every publication and posting of notice of the question must be in substantially the following form:

(Explanation of Question)

The proposed amendment to the Sales and Use Tax Act of 1955 would exempt from the taxes imposed by this Act the gross receipts from the sale and storage, use or other consumption of durable medical equipment and mobility-enhancing equipment prescribed by a licensed provider of health care. If this proposal is adopted, the Legislature has provided that the Local School Support Tax Law and certain analogous taxes on retail sales will be amended to provide the same exemption.

Sec. 6. If a majority of the votes cast on the question is yes, the amendment to the Sales and Use Tax Act of 1955 becomes effective on January 1, 2009. If less than a majority of votes cast on the question is yes, the question fails and the amendment to the Sales and Use Tax Act of 1955 does not become effective.

Sec. 7. All general election laws not inconsistent with this act are applicable.

Sec. 8. Any informalities, omissions or defects in the content or making of the publications, proclamations or notices provided for in this act and by the general election laws under which this election is held must be so construed as not to invalidate the adoption of the act by a majority of the registered voters voting on the question if it can be ascertained with reasonable certainty from the official returns transmitted to the Office of the Secretary of State whether the proposed amendment was adopted by a majority of those registered voters.

Sec. 9. At the General Election on November 4, 2008, a proposal must be submitted to the registered voters of this State to amend the Sales and Use Tax Act, which was enacted by the 47th Session of the Legislature of the State of Nevada and approved by the Governor in 1955, and subsequently approved by the people of this State at the General Election held on November 6, 1956.

Sec. 10. At the time and in the manner provided by law, the Secretary of State shall transmit the proposed act to the several county clerks, and the county clerks shall cause it to be published and posted as provided by law.

Sec. 11. The proclamation and notice to the voters given by the county clerks pursuant to law must be in substantially the following form:

Notice is hereby given that at the General Election on November 4, 2008, a question will appear on the ballot for the adoption or rejection by the registered voters of the State of the following proposed act:

"AN ACT to amend an Act entitled "An Act to provide revenue for the State of Nevada; providing for sales and use taxes; providing for the manner of collection; defining certain terms; providing penalties for violation, and other matters properly relating thereto." "approved March 29, 1955, as amended.

THE PEOPLE OF THE STATE OF NEVADA

DO ENACT AS FOLLOWS:

Section 1. Section 56.1 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, as added by chapter 306, Statutes of Nevada 1969, at page 532, and amended by chapter 627, Statutes of Nevada 1985, at page 2028, and amended by chapter 404, Statutes of Nevada 1995, at page 1007, is hereby amended to read as follows:

Sec. 56.1. 1. There are exempted from the taxes imposed by this act the gross receipts from sales and the storage, use or other consumption of:

(a) Prosthetic devices, orthotic appliances and ambulatory casts for human use, and other supports and casts if prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

(b) Appliances and supplies relating to an ostomy.

(c) Products for hemodialysis.

(d) Medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe medicines, and dispensed on a prescription filled by a registered pharmacist in accordance with law;

(2) Furnished by a licensed physician, dentist or podiatric physician to his own patient for the treatment of the patient;

(3) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, dentist or podiatric physician; or

(4) Sold to a licensed physician, dentist, podiatric physician or hospital for the treatment of a human being.

(e) Hearing aids and hearing-aid accessories.

2. As used in this section:

(a) "Medicine" means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease or affliction of the human body and which is commonly recognized as a substance or preparation intended for such use. The term includes splints, bandages, pads, compresses and dressings.

(b) "Medicine" does not include:

(1) Any auditory, ophthalmic or ocular device or appliance.

(2) Articles which are in the nature of instruments, crutches, canes, devices or other mechanical, electronic, optical or physical equipment.

(3) Any alcoholic beverage, except where the alcohol merely provides a solution in the ordinary preparation of a medicine.

(4) Braces or supports, other than those prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

3. Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on a prescription within the meaning of this section.

Sec. 2. This act becomes effective on January 1, 2009.

Sec. 12. The ballot page assemblies and the paper ballots to be used in voting on the question must present the question in substantially the following form:

Shall the Sales and Use Tax Act of 1955 be amended to provide an exemption from the taxes imposed by this Act on the gross receipts from the sale and the storage, use or other consumption of hearing aids and hearing-aid accessories?

Yes ☐ No ☐

Sec. 13. The explanation of the question which must appear on each paper ballot and sample ballot and in every publication and posting of notice of the question must be in substantially the following form:
(Explanation of Question)

The proposed amendment to the Sales and Use Tax Act of 1955 would exempt from the taxes imposed by this Act the gross receipts from the sale and storage, use or other consumption of hearing aids and hearing-aid accessories. If this proposal is adopted, the Legislature has provided that the Local School Support Tax Law and certain analogous taxes on retail sales will be amended to provide the same exemption.

Sec. 14. If a majority of the votes cast on the question is yes, the amendment to the Sales and Use Tax Act of 1955 becomes effective on January 1, 2009. If less than a majority of votes cast on the question is yes, the question fails and the amendment to the Sales and Use Tax Act of 1955 does not become effective.

Sec. 15. All general election laws not inconsistent with this act are applicable.

Sec. 16. Any informalities, omissions or defects in the content or making of the publications, proclamations or notices provided for in this act and by the general election laws under which this election is held must be so construed as not to invalidate the adoption of the act by a majority of the registered voters voting on the question if it can be ascertained with reasonable certainty from the official returns transmitted to the Office of the Secretary of State whether the proposed amendment was adopted by a majority of those registered voters.

~~{Sec. 9.}~~ Sec. 17. Chapter 372 of NRS is hereby amended by adding thereto a new section to read as follows:

In administering the provisions of section 56.1 of chapter 397, Statutes of Nevada 1955, which is included in NRS as NRS 372.283, the Department shall construe the term ~~["mobility-enhancing"]~~ :

1. "Durable medical equipment" to mean equipment, including any repair and replacement parts therefor, which:

(a) Can withstand repeated use;

(b) Is primarily and customarily used to serve a medical purpose;

(c) Generally is not useful to a person in the absence of illness or injury;

and

(d) Is not worn in or on the body.

2. "Mobility-enhancing equipment" to mean equipment, including any repair and replacement parts therefor, which:

~~{1.}~~ (a) Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle;

~~{2.}~~ (b) Is not generally used by persons with normal mobility; and

~~{3.}~~ (c) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a manufacturer of motor vehicles.

Sec. 18. Chapter 372 of NRS is hereby amended by adding thereto a new section to read as follows:

In administering the provisions of section 56.1 of chapter 397, Statutes of Nevada 1955, which is included in NRS as NRS 372.283, the Department shall construe the term:

1. "Hearing aid" to:

(a) Mean:

(1) An instrument or device with an electronic component designed to improve human hearing, which is worn in or affixed behind the ear;

(2) A device that is surgically implanted into the cochlea to improve human hearing; or

(3) A device for the amplification of a telephone which is designed for use by an individual; and

(b) Exclude:

(1) Any instrument or device designed to be worn on any part of the body other than in or on the ear; and

(2) Any device or system designed to be used simultaneously by more than one individual.

2. "Hearing-aid accessory" to:

(a) Mean a component of or an attachment or accessory for a hearing aid, including any neck loop, cord, mold, tubing, ear hook and remote control for a hearing aid; and

(b) Exclude any battery for a hearing aid and any accessory designed to be used only with an item that does not constitute a hearing aid.

~~{Sec. 10.}~~ Sec. 19. Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

In administering the provisions of NRS 374.287, the Department shall construe the term ~~["mobility-enhancing"]~~:

1. "Durable medical equipment" to mean equipment, including any repair and replacement parts therefor, which:

(a) Can withstand repeated use;

(b) Is primarily and customarily used to serve a medical purpose;

(c) Generally is not useful to a person in the absence of illness or injury; and

(d) Is not worn in or on the body.

2. "Mobility-enhancing equipment" to mean equipment, including any repair and replacement parts therefor, which:

~~{1.}~~ (a) Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle;

~~{2.}~~ (b) Is not generally used by persons with normal mobility; and

~~{3.}~~ (c) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a manufacturer of motor vehicles.

Sec. 20. Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

In administering the provisions of NRS 374.287, the Department shall construe the term:

1. "Hearing aid" to:

(a) Mean:

(1) An instrument or device with an electronic component designed to improve human hearing, which is worn in or affixed behind the ear;

(2) A device that is surgically implanted into the cochlea to improve human hearing; or

(3) A device for the amplification of a telephone which is designed for use by an individual; and

(b) Exclude:

(1) Any instrument or device designed to be worn on any part of the body other than in or on the ear; and

(2) Any device or system designed to be used simultaneously by more than one individual.

2. "Hearing-aid accessory" to:

(a) Mean a component of or an attachment or accessory for a hearing aid, including any neck loop, cord, mold, tubing, ear hook and remote control for a hearing aid; and

(b) Exclude any battery for a hearing aid and any accessory designed to be used only with an item that does not constitute a hearing aid.

~~{Sec. 11}~~ Sec. 21. NRS 374.287 is hereby amended to read as follows:

374.287 1. There are exempted from the taxes imposed by this chapter the gross receipts from sales and the storage, use or other consumption of:

(a) Prosthetic devices, orthotic appliances and ambulatory casts for human use, and other supports and casts if prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

(b) Appliances and supplies relating to an ostomy.

(c) Products for hemodialysis ~~{ }~~ and durable medical equipment if prescribed by a licensed provider of health care acting within his scope of practice.

(d) ~~{Mobility-enhancing}~~ Canes, crutches, manual or motorized wheelchairs or scooters that enhance the ability of a person to move, and other mobility-enhancing equipment if prescribed by a licensed provider of health care acting within his scope of practice.

(e) Medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe medicines, and dispensed on a prescription filled by a registered pharmacist in accordance with law;

(2) Furnished by a licensed physician, dentist or podiatric physician to his own patient for the treatment of the patient;

(3) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, dentist or podiatric physician; or

(4) Sold to a licensed physician, dentist, podiatric physician or hospital for the treatment of a human being.

2. As used in this section:

(a) "Medicine" means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease or affliction of the human body and which is commonly recognized as a substance or preparation intended for such use. The term includes splints, bandages, pads, compresses and dressings.

(b) "Medicine" does not include:

- (1) Any auditory, ophthalmic or ocular device or appliance.
- (2) Articles which are in the nature of instruments, crutches, canes, devices or other mechanical, electronic, optical or physical equipment.
- (3) Any alcoholic beverage, except where the alcohol merely provides a solution in the ordinary preparation of a medicine.

(4) Braces or supports, other than those prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

3. Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on a prescription within the meaning of this section.

Sec. 22. NRS 374.287 is hereby amended to read as follows:

374.287 1. There are exempted from the taxes imposed by this chapter the gross receipts from sales and the storage, use or other consumption of:

(a) Prosthetic devices, orthotic appliances and ambulatory casts for human use, and other supports and casts if prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

(b) Appliances and supplies relating to an ostomy.

(c) Products for hemodialysis.

(d) Medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe medicines, and dispensed on a prescription filled by a registered pharmacist in accordance with law;

(2) Furnished by a licensed physician, dentist or podiatric physician to his own patient for the treatment of the patient;

(3) Furnished by a hospital for treatment of any person pursuant to the order of a licensed physician, dentist or podiatric physician; or

(4) Sold to a licensed physician, dentist, podiatric physician or hospital for the treatment of a human being.

(e) Hearing aids and hearing-aid accessories.

2. As used in this section:

(a) "Medicine" means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease or affliction of the human body and which is commonly recognized as a substance or preparation intended for such use. The term includes splints, bandages, pads, compresses and dressings.

(b) "Medicine" does not include:

- (1) Any auditory, ophthalmic or ocular device or appliance.

(2) Articles which are in the nature of instruments, crutches, canes, devices or other mechanical, electronic, optical or physical equipment.

(3) Any alcoholic beverage, except where the alcohol merely provides a solution in the ordinary preparation of a medicine.

(4) Braces or supports, other than those prescribed or applied by a licensed provider of health care, within his scope of practice, for human use.

3. Insulin furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on a prescription within the meaning of this section.

~~{Sec. 12}~~ *Sec. 23.* 1. This section and sections 1 to ~~{8}~~ 16, inclusive, of this act become effective on October 1, 2007.

2. Sections ~~{9, 10 and 11}~~ 17, 19 and 21 of this act become effective on January 1, 2009, only if the proposal submitted pursuant to sections 1 to 8, inclusive, of this act is approved by the voters at the General Election on November 4, 2008.

3. Sections 18, 20 and 22 of this act become effective on January 1, 2009, only if the proposal submitted pursuant to sections 9 to 16, inclusive, of this act is approved by the voters at the General Election on November 4, 2008.

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 180.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 527.

"SUMMARY—Provides the registered owner of a vehicle with the opportunity to make a voluntary contribution to the State Highway Fund at the time of the renewal of the registration. (BDR 43-696)"

"AN ACT relating to the registration of vehicles; providing the registered owner of a vehicle with the opportunity to make a voluntary contribution to the State Highway Fund at the time of the renewal of the registration of the vehicle; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill provides a mechanism pursuant to which the registered owner of a vehicle may, at the time of the renewal of the registration of the vehicle, contribute voluntarily to the State Highway Fund an amount of money in excess of that required to pay the license fees, registration fees and governmental services taxes otherwise due for the renewal of the registration. The bill requires that money donated pursuant to this new provision be used only for the construction, maintenance and repair of the public highways of this State.

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

Section 1. Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *When the registered owner of a vehicle applies for the renewal of the registration of the vehicle ~~f, whether by mail, by way off through the Internet f, or~~ in person at an office of the Department or through a designee of the Department, the Department shall provide or cause to be provided to the registered owner ~~for cause the registered owner to be provided with a document upon which the registered owner may indicate:~~*

~~(a) That he wishes to~~ the opportunity to remit voluntarily to the State of Nevada an amount of money in addition to all other applicable registration and license fees and governmental services taxes otherwise due for the renewal of the registration of the vehicle ~~_ f, and~~

~~(b) The amount of additional money that he wishes to remit voluntarily to the State.~~

2. *If the registered owner of a vehicle ~~indicates on the document described in subsection 1 that he~~ wishes to remit voluntarily to the State of Nevada an amount of money in addition to all other applicable registration and license fees and governmental services taxes otherwise due for the renewal of the registration of the vehicle, the Department or its designee shall:*

(a) *Accept the remittance from the registered owner; and*

(b) *Deposit the remittance with the State Treasurer for credit to the State Highway Fund. The money deposited in the State Highway Fund pursuant to this paragraph must be used exclusively for the construction, maintenance and repair of the public highways of this State and must not be used to pay administrative expenses of any kind.*

3. *The Director, in cooperation with the Department of Taxation, shall adopt regulations to carry out the provisions of this section. ~~The regulations must, without limitation, prescribe the form of the document described in subsection 1.~~*

Sec. 2. ~~NRS 482.280 is hereby amended to read as follows:~~

~~482.280 1. The registration of every vehicle expires at midnight on the day specified on the receipt of registration, unless the day specified falls on a Saturday, Sunday or legal holiday. If the day specified on the receipt of registration is a Saturday, Sunday or legal holiday, the registration of the vehicle expires at midnight on the next judicial day. The Department shall mail to each holder of a certificate of registration an application for renewal of registration for the following period of registration. The applications must be mailed by the Department in sufficient time to allow all applicants to mail the applications to the Department and to receive new certificates of registration and license plates, stickers, tabs or other suitable devices by mail before the expiration of their registrations. An applicant may present or submit the application to any agent or office of the Department.~~

~~2.—An application:~~~~(a) Mailed or presented to the Department or to a county assessor pursuant to the provisions of this section;~~~~(b) Submitted to the Department pursuant to NRS 482.294; or~~~~(c) Presented to an authorized inspection station or authorized station pursuant to the provisions of NRS 482.281;~~~~→ must include, if required, evidence of compliance with standards for control of emissions.~~~~3.—The Department shall insert in each application mailed pursuant to subsection 1:~~~~(a) The amount of the governmental services tax to be collected for the county pursuant to the provisions of NRS 482.260.~~~~(b) The amount set forth in a notice of nonpayment filed with the Department by a local authority pursuant to NRS 484.444.~~~~(c) A statement which informs the applicant that, pursuant to NRS 485.185, he is legally required to maintain insurance during the period in which the motor vehicle is registered.~~~~(d) The document described in section 1 of this act.~~~~4.—An owner who has made proper application for renewal of registration before the expiration of the current registration but who has not received the license plate or plates or card of registration for the ensuing period of registration is entitled to operate or permit the operation of that vehicle upon the highways upon displaying thereon the license plate or plates issued for the preceding period of registration for such a time as may be prescribed by the Department as it may find necessary for the issuance of the new plate or plates or card of registration.] *(Deleted by amendment.)*~~

Senator Beers moved the adoption of the amendment.

Remarks by Senator Beers.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 199.

Bill read second time.

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

Amendment No. 246.

"SUMMARY—Makes various changes to requirements for a public work involving the construction of a traffic-control signal. (BDR 28-348)"

"AN ACT relating to public works; making various changes to requirements for a public work involving the construction of a traffic-control signal; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits a public body from dividing a public work into separate portions to avoid the requirement of advertising for bids for the public work and requires a public body to award contracts to the lowest

responsive responsible bidder. Existing law also requires a public body to prepare and make available for public inspection a written statement containing certain information, including, without limitation, an estimate of the total cost of the public work before the public body may perform the work itself. (NRS 338.1385, 338.143) This bill allows a public body to divide the work on a traffic-control signal ~~and to perform part or all the work itself~~ if the public body complies with certain requirements, including completing a study on the need for a traffic-control signal and determining that dividing the work ~~for performing part or all the work itself~~ is the most cost-effective and expeditious manner in which to complete the traffic-control signal. This bill also authorizes a public body to advertise for contracts under which the contractor agrees for a 1-year period to construct traffic-control signals or portions of traffic-control signals upon demand by the public body. Additionally, this bill allows a public body to perform all or part of the construction of a traffic-control signal if the public body advertises for and does not receive any bids for the construction or if the public body awards a 1-year contract and the contractor who was awarded the contract is unavailable to perform the work within the time required by the public body.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A public body may divide a public work for the construction of a traffic-control signal into separate portions and may advertise for bids for each portion ~~for may perform the work itself for any portion~~ if the public body:

(a) Conducts a study of the need for a traffic-control signal at a specific location and the public body determines pursuant to the study that the signal is warranted;

(b) Finds that the interest of public safety would be served best if the traffic-control signal is constructed in the most expeditious and cost-effective manner;

(c) Finds that dividing the work into separate portions ~~and, if it intends to perform any portion of the work, performing at least a portion of the work itself~~ is the most expeditious and cost-effective manner in which to construct the traffic-control signal; and

(d) Advertises for bids for each separate portion of the public work ~~which it is not performing~~ in the same manner that it would publish any other advertisement for bids.

2. A public body may advertise for bids for a contract under which the contractor agrees for a 1-year period to construct traffic-control signals or portions of traffic-control signals upon demand by the public body. A public body may include in the specifications for bids for such a contract:

(a) The maximum time allowed between the date on which the public body provides notice to the contractor to commence construction of a traffic-control signal or portion thereof and the date by which the construction must be completed to the satisfaction of the public body; and

(b) The maximum time allowed for the delivery of materials to complete the construction and, if deemed appropriate by the public body, measures for expediting delivery of such materials, including, without limitation, delivery of any or all materials by the public body.

3. A public body may perform all or a portion of the work on the construction of a traffic-control signal if:

(a) The public body advertised for bids pursuant to subsection 1 or 2 and did not receive any bids; or

(b) The public body entered into a contract pursuant to subsection 2 and the contractor to whom the contract was awarded is unavailable to perform the work within the time required by the public body.

4. As used in this section, "traffic-control signal" has the meaning ascribed to it in NRS 484.205.

Sec. 2. NRS 338.0115 is hereby amended to read as follows:

338.0115 1. Except as otherwise provided in subsection 2, the provisions of this chapter and chapters 332 and 339 of NRS do not apply to a contract under which a private developer, for the benefit of a private development, constructs a water or sewer line extension and any related appurtenances:

(a) Which qualify as a public work pursuant to NRS 338.010; and

(b) For which he will receive a monetary contribution or refund from a public body as reimbursement for a portion of the costs of the project.

2. If, pursuant to the provisions of such a contract, the developer is not responsible for paying all of the initial construction costs of the project, the provisions of NRS 338.013 to 338.090, inclusive, 338.1373 to 338.139, inclusive, and section 1 of this act and 338.140 to 338.148, inclusive, apply to the contract.

Sec. 3. NRS 338.1385 is hereby amended to read as follows:

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

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

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

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

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

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

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

5. Except as otherwise provided in subsection 6 and NRS 338.1389, *and section 1 of this act*, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

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

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

(b) The bidder is not responsive or responsible;

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

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

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

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

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

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

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

8. ~~Before~~ *Except as otherwise provided in section 1 of this act, before* a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

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

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

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

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

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

9. This section does not apply to:

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

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

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

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

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

Sec. 4. NRS 338.1385 is hereby amended to read as follows:

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

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

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

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

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized

representative awarded pursuant to subsection 1 in the immediately preceding quarter.

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

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

5. Except as otherwise provided in subsection 6 and NRS 338.1389, *and section 1 of this act*, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

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

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

(b) The bidder is not responsive or responsible;

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

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

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

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

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

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

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

8. ~~Before~~ *Except as otherwise provided in section 1 of this act, before* a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

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

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

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

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

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

9. This section does not apply to:

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

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

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

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

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

Sec. 5. NRS 338.143 is hereby amended to read as follows:

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

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

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

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

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

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

4. Except as otherwise provided in subsection 5 and NRS 338.147, *and section 1 of this act*, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

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

- (a) The bidder is not responsive or responsible;
- (b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or
- (c) The public interest would be served by such a rejection.

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

- (a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;
- (b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);
- (c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and
- (d) The contract is awarded to the lowest responsive and responsible bidder.

7. ~~[Before]~~ *Except as otherwise provided in section 1 of this act, before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:*

- (a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;
- (b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;
- (c) An estimate of the cost of administrative support for the persons assigned to the public work;
- (d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and
- (e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

- (a) Any utility subject to the provisions of chapter 318 or 710 of NRS;
- (b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;
- (c) Normal maintenance of the property of a school district;
- (d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993; or

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

Sec. 6. NRS 338.143 is hereby amended to read as follows:

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

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

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

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

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

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

4. Except as otherwise provided in subsection 5 and NRS 338.147, *and section 1 of this act*, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

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

(a) The bidder is not responsive or responsible;

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

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

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

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

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

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

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

7. ~~Before~~ *Except as otherwise provided in section 1 of this act, before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:*

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

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

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

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

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

8. This section does not apply to:

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

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

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

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

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

Sec. 7. 1. This section and sections 1, 2, 3 and 5 of this act become effective on July 1, 2007.

2. Sections 3 and 5 of this act expire by limitation on April 30, 2013.

3. Sections 4 and 6 of this act become effective on May 1, 2013.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 201.

Bill read second time.

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

Amendment No. 306.

"SUMMARY—Revises provisions governing public works. (BDR 28-526)"

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

Legislative Counsel's Digest:

Sections 2-12 of this bill authorize a public body to enter into contracts with a construction manager at risk for the preconstruction and construction of a public work and provide the method for selecting a construction manager at risk. Under the construction manager at risk method for constructing a public work, a public body may enter into a contract for a negotiated price with a construction manager at risk to provide preconstruction services for the public work that include, without limitation, design support, construction estimating, value and system analysis and scheduling. After the public body has obtained the final design for the public work, the public body and the construction manager at risk are required to attempt to negotiate a contract for the construction manager at risk to construct the public work. If the public body and the construction manager at risk enter into such a contract, the contract must be for a guaranteed maximum price, a fixed price or a fixed price plus reimbursement for overhead and other costs and expenses related to the construction of the public work.

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

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

the public work. A construction manager as agent is prohibited from taking part in the design or construction of the public work.

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

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

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

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

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

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

(1) *Determining whether scheduling or design problems exist that would delay the construction of the public work;*

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

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

(b) *To construct the public work.*

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

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

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

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

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

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

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

(a) *A description of the public work;*

(b) *An estimate of the cost for preconstruction services;*

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

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

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

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

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

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

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

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

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

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

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

(e) *Evidence that the applicant has obtained insurance covering general liability and liability for errors and omissions;*

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

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

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

(g) *Evidence of the financial condition of the applicant.*

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

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

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

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

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

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

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

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

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

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

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

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

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

2. A final proposal must include, without limitation:

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

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

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

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

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

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

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

interviews, the panel shall rank the applicants based on the final proposals and interviews, which must be given equal weight.

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

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

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

- (a) A guaranteed maximum price;*
- (b) A fixed price; or*
- (c) A fixed price plus reimbursement for overhead and other costs and expenses related to the construction of the public work.*

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

- (a) Shall terminate negotiations with that applicant; and*
- (b) May award the contract for the public work:*
 - (1) If the public body is not a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive.*
 - (2) If the public body is a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive, or 338.143 to 338.148, inclusive, and section 14 of this act.*

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

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

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

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

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

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

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

6. *Must require that the construction manager at risk to whom a contract is awarded assume overall responsibility for ensuring that the preconstruction or construction of the public work, as applicable, is completed in a satisfactory manner.*

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

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

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

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

Sec. 12. 1. If a construction manager at risk ~~contracts for the services of~~ to whom a contract for the construction of a public work is awarded pursuant to section 8 of this act wishes to enter into a contract with a subcontractor ~~to~~ to provide materials, equipment, work or other services on the public work, the subcontractor must be licensed pursuant to chapter 624 of NRS and selected by the construction manager at risk ~~to~~

~~1. If the labor or portions of the public work that will be provided by the subcontractor are estimated by the public body to be 5 percent or more of the estimated cost of the public work, based on the skill and experience in a particular trade or classification or a combination of price and skill and experience in a particular trade or classification; or~~

~~2. If the labor or portions of the public work that will be provided by the subcontractor are estimated by the public body to be less than 5 percent of the estimated cost of the public work,~~ based on the process of competitive bidding.

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

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

(a) Must:

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

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

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

(b) May enter into a contract with a public body to assist in the planning, scheduling and management of the construction of a public work without assuming any responsibility for the cost, quality or timely completion of the construction of the public work. A construction manager as agent who enters into a contract with a public body pursuant to this section may not take part in the design or construction of the public work.

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

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

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

(b) The plans and specifications are for a public work that has an estimated cost which exceeds \$10,000,000.

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

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

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

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

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

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

- (a) NRS 338.1377 to 338.139, inclusive;
- (b) NRS 338.143 to 338.148, inclusive ~~[; or]~~, and section 14 of this act;
- (c) NRS 338.1711 to 338.1727, inclusive ~~[; or]~~; or
- (d) Sections 2 to 12, inclusive, of this act.

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

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

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

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

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

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

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

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

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

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

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

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

(b) The bidder is not responsive or responsible;

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

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

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

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

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

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

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

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

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

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

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

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

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

9. This section does not apply to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The bidder is not responsive or responsible;

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

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

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

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

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

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

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

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

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

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

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

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

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

9. This section does not apply to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The bidder is not responsive or responsible;

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

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

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

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

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

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

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

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

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

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

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

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

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

8. This section does not apply to:

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

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

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

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

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

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

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

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

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

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

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

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

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the

authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

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

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

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

- (a) The bidder is not responsive or responsible;
- (b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or
- (c) The public interest would be served by such a rejection.

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

- (a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;
- (b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);
- (c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and
- (d) The contract is awarded to the lowest responsive and responsible bidder.

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

- (a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;
- (b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;
- (c) An estimate of the cost of administrative support for the persons assigned to the public work;
- (d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and
- (e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

- (a) Any utility subject to the provisions of chapter 318 or 710 of NRS;
- (b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;
- (c) Normal maintenance of the property of a school district;
- (d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993; ~~or~~
- (e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive ~~[-]~~;

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

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

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

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

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

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

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

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

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

- 1. Construct the public work; or
- 2. Assume overall responsibility for ensuring that the construction of the public work is completed in a satisfactory manner.

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

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

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

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 203.

Bill read second time.

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

Amendment No. 247.

"SUMMARY—Revises provisions concerning local financial administration. (BDR 20-711)"

"AN ACT relating to local financial administration; ~~making various changes to provisions authorizing~~ *revising provisions concerning the proceeds of the fee authorized to be imposed in* certain counties to pay for *certain* baseball stadium projects ~~in certain circumstances~~; extending the dates for the reversion of certain money previously transferred and appropriated to the Interim Finance Committee to be allocated for Truckee River improvement related projects; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) may impose a fee upon the rental of passenger vehicles and issue revenue bonds of the county to acquire, improve, equip, operate and maintain a minor league baseball stadium project ~~[(NRS 244A.058, 244A.800-244A.830) Existing law defines the term "minor league baseball stadium project" so as to require that the stadium]~~ *to* be used for the home games of a Double-A or Triple-A affiliate of a Major League Baseball team. (NRS 244A.0344 ~~[(Sections]~~, 244A.058, 244A.800, 244A.830) *Section 9.5 of this bill requires such a board of county commissioners to determine whether certain criteria for the minor league baseball stadium project have been met by October 1, 2007, and make a finding if all the criteria have been met. If the criteria have not been met by October 1, 2007, sections 1-6 of this bill* ~~replace the term "minor league baseball stadium project" with the term "professional baseball stadium project," thereby allowing]~~ *allow* the proceeds of the applicable fees *on the rental of passenger vehicles and related revenue* bonds to be used to acquire, improve, equip, operate and maintain *any project that has been approved by the Legislature, if the Legislature is in session, or by the Interim Finance Committee, if the Legislature is not in session. Such a project may include the acquisition, improvement, equipment, operation and maintenance of* a baseball stadium that can be used for the home games of any professional baseball team, and for certain other purposes, regardless of whether the professional baseball team is affiliated with a Major League Baseball team.

For the 2005-2007 biennium, \$650,000 was transferred from the Fund for the Promotion of Tourism to the Interim Finance Committee for allocation to the Reno-Sparks Convention and Visitors Authority to carry out a maximum of four projects relating to the improvement of the Truckee River. (Section 5 of chapter 454, Statutes of Nevada 2005, p. 2088) For the same biennium, \$600,000 was appropriated from the State General Fund to the Interim Finance Committee for allocation to the Reno-Sparks Convention and Visitors Authority for the same purpose. (Section 32 of chapter 7, Statutes of Nevada 2005, 22nd Special Session, p. 120) Sections 7 and 8 of this bill extend the dates by which the remaining balance of this money reverts to the applicable Funds by 2 years.

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

Section 1. Chapter 244A of NRS is hereby amended by adding thereto a new section to read as follows:

~~f. "Professional baseball stadium project" means a baseball stadium which can be used for the home games of a professional baseball team and for other purposes, including structures, buildings and other improvements and equipment therefor, parking facilities, and all other appurtenances necessary, useful or desirable for a professional baseball stadium, including, without limitation, all types of property therefor.~~

1. A board that has adopted an ordinance imposing a fee pursuant to NRS 244A.810 may, on behalf of the county and in its name:

(a) Acquire, improve, equip, operate and maintain within the county a project that has been approved by the Legislature, if the Legislature is in session, or the Interim Finance Committee, if the Legislature is not in session.

(b) Subject to the provisions of chapter 350 of NRS, issue revenue bonds of the county to acquire, improve or equip, or any combination thereof, the project described in paragraph (a).

2. Bonds issued pursuant to this section must be payable from the proceeds of the fee imposed by the county pursuant to NRS 244A.810 and may be additionally secured by and payable from the gross or net revenues of the project as provided by the board in the ordinance authorizing the issuance of bonds or any instrument supplemental or appertaining thereto.

Sec. 1.5. NRS 244A.011 is hereby amended to read as follows:

244A.011 NRS 244A.011 to 244A.065, inclusive, and section 1 of this act shall be known as the County Bond Law.

Sec. 2. [NRS 244A.013 is hereby amended to read as follows:

~~244A.013 — Except where the context otherwise requires, the definitions in NRS 244A.015 to 244A.056, inclusive, and section 1 of this act govern the construction hereof.] (Deleted by amendment.)~~

Sec. 2.5. NRS 244A.0344 is hereby amended to read as follows:

244A.0344 ~~["Minor league"]~~ "Professional baseball stadium project" means a baseball stadium which can be used for the home games of ~~an AA~~

~~or AAA-minor league~~ a professional baseball team and for other purposes, including structures, buildings and other improvements and equipment therefor, parking facilities, and all other appurtenances necessary, useful or desirable for a ~~{minor league}~~ *professional* baseball stadium, including, without limitation, all types of property therefor.

Sec. 3. NRS 244A.058 is hereby amended to read as follows:

244A.058 1. A board ~~{that has adopted an ordinance imposing a fee pursuant to NRS 244A.810}~~ *in a county whose population is 100,000 or more but less than 400,000* may, on behalf of the county and in its name:

(a) Acquire, improve, equip, operate and maintain within the county a ~~{minor league}~~ *professional* baseball stadium project.

(b) Subject to the provisions of chapter 350 of NRS, issue revenue bonds of the county to acquire, improve or equip, or any combination thereof, within the county a ~~{minor league}~~ *professional* baseball stadium project.

2. Bonds issued pursuant to this section must be ~~{payable from the proceeds of the fee imposed by the county pursuant to NRS 244A.810 and may be additionally}~~ secured by and payable from the gross or net revenues of the ~~{minor league}~~ *professional* baseball stadium project, including, without limitation, amounts received from any ~~{minor league}~~ *professional* baseball team pursuant to a contract with that team, fees, rates and charges for the use of the stadium by a ~~{minor league}~~ *professional* baseball team or any other uses of the stadium, and related uses, including, without limitation, parking and concessions, surcharges on tickets in an amount approved by the board, grants, whether conditional or unconditional, made for the payment of debt service or otherwise for the purposes of the ~~{minor league}~~ *professional* baseball stadium project, and any and all other sources of revenue attributable to the ~~{minor league}~~ *professional* baseball stadium project as provided by the board in the ordinance authorizing the issuance of bonds or any instrument supplemental or appertaining thereto.

Sec. 4. NRS 244A.800 is hereby amended to read as follows:

244A.800 As used in NRS 244A.800 to 244A.830, inclusive:

1. "Department" means the Department of Taxation.

2. ~~{ "Minor league" }~~ *"Professional baseball stadium project"* has the meaning ascribed to it in NRS 244A.0344. ~~{section 1 of this act.}~~

Sec. 5. NRS 244A.810 is hereby amended to read as follows:

244A.810 1. Except as otherwise provided in subsection 2, the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 may by ordinance impose a fee upon the lease of a passenger car by a short-term lessor in the county in the amount of not more than 2 percent of the total amount for which the passenger car was leased, excluding any taxes or other fees imposed by a governmental entity.

2. The fee imposed pursuant to subsection 1 must not apply to replacement vehicles. As used in this subsection, "replacement vehicle" means a vehicle that is:

(a) Rented temporarily by or on behalf of a person or leased to a person by a facility that repairs motor vehicles or a motor vehicle dealer; and

(b) Used by the person in place of a motor vehicle owned by the person that is unavailable for use because of mechanical breakdown, repair, service, damage or loss as defined in the owner's policy of liability insurance for the motor vehicle.

3. Any proceeds of a fee imposed pursuant to this section which are received by a county must be used solely to pay the costs to acquire, improve, equip, operate and maintain within the county a ~~minor league professional baseball stadium~~ project ~~[.]~~ that has been approved by the Legislature, if the Legislature is in session, or the Interim Finance Committee, if the Legislature is not in session, or to pay the principal of, interest on or other payments due with respect to bonds issued to pay such costs, including bonds issued to refund bonds issued to pay such costs, or any combination thereof.

4. The board of county commissioners shall not repeal or amend or otherwise directly or indirectly modify an ordinance imposing a fee pursuant to subsection 1 in such a manner as to impair any outstanding bonds issued by or other obligations incurred by the county until all obligations for which revenue from the ordinance have been pledged or otherwise made payable from such revenue have been discharged in full or provision for full payment and redemption has been made.

5. As used in this section, the words and terms defined in NRS 482.053 and 482.087 have the meanings ascribed to them in those sections.

Sec. 6. NRS 244A.830 is hereby amended to read as follows:

244A.830 1. A board of county commissioners that ~~adopts an ordinance imposing a fee pursuant to NRS 244A.810~~ acquires, improves, equips, operates and maintains within the county a professional baseball stadium project shall create a stadium authority to operate the ~~minor league professional baseball stadium project~~. The stadium authority must consist of:

(a) One member of the board of county commissioners appointed by the board;

(b) One member from the governing body of each city in the county whose population is 60,000 or more, appointed by that governing body; and

(c) If the stadium authority enters into an agreement with ~~an AA or AAA minor league~~ a professional baseball team pursuant to which the team agrees to play its home games in the stadium, two persons appointed by the owner of the team.

2. The members of the stadium authority serve at the pleasure of the governmental entity or person who appointed them to serve in that capacity.

3. The stadium authority shall:

(a) Be responsible for the normal operations of the ~~minor league professional baseball stadium project~~; and

(b) Enter into an agreement with the board of county commissioners that sets forth the specific rights, obligations and duties of the stadium authority regarding those operations.

Sec. 7. Section 5 of chapter 454, Statutes of Nevada 2005, at page 2088, is hereby amended to read as follows:

Sec. 5. 1. The Commission on Tourism shall, as soon as practicable after July 1, 2005, and July 1, 2006, respectively, without depleting the funds necessary for day-to-day operations, transfer the following amounts from the proceeds from the taxes imposed on the revenue from the rental of transient lodging which have been credited to the Fund for the Promotion of Tourism, created by NRS 231.250, to the Interim Finance Committee:

For the Fiscal Year 2005-2006\$600,000

For the Fiscal Year 2006-2007\$50,000

2. The money transferred pursuant to subsection 1 shall be allocated to the Reno-Sparks Convention and Visitors Authority to implement the Truckee River Recreational Master Plan as adopted by the City of Reno, the City of Sparks and Washoe County through a public review process. The money must be used to plan, obtain permits for, design and construct not more than four projects along the Truckee River that would enhance the recreational enjoyment, aquatic habitat and water quality of the Truckee River. The money must be expended on the following projects but is not limited to Rock Park, Pioneer Diversion Dam, Ambrose Park and Idlewild Park.

3. The Interim Finance Committee shall allocate the money transferred pursuant to subsection 1 upon notification that the City of Reno, the City of Sparks and Washoe County have committed to expend, in total, an equal amount of money on Truckee River improvement related projects. For the purpose of this section, Truckee River improvement related projects include any public project to improve the Truckee River for watershed protection, watershed restoration, recreation or flood control.

4. Upon acceptance of the money allocated pursuant to subsection 2, the Reno-Sparks Convention and Visitors Authority shall prepare and transmit a report to the Interim Finance Committee on or before December 15, ~~{2006,}~~ 2008, that describes each expenditure made from the money allocated pursuant to subsection 2 from the date on which the money was received by the Reno-Sparks Convention and Visitors Authority through December 1, ~~{2006,}~~ 2008.

5. The Reno-Sparks Convention and Visitors Authority shall not assess an administrative fee or fine upon any local governing bodies relating to compliance with the provisions of subsections 3 and 4.

6. A public review and approval process, as determined by the City of Reno, the City of Sparks and Washoe County, must be completed before the commencement of construction of any project that uses

money allocated pursuant to this section. Project design, construction documents and funding processes related to any such project must be approved by each local governing body having jurisdiction over the project. Each such project must conform to the parameters of the Truckee River Flood Control Project and the Truckee River Operating Agreement.

7. Any remaining balance of the sums transferred pursuant to subsection 1 must not be committed for expenditure after June 30, ~~[2007,]~~ 2009, and must be reverted to the Fund for the Promotion of Tourism on or before September ~~[21, 2007.]~~ 18, 2009.

Sec. 8. Section 32 of chapter 7, Statutes of Nevada 2005, 22nd Special Session, at page 120, is hereby amended to read as follows:

Sec. 32. 1. There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of \$600,000 for allocation to the Reno-Sparks Convention and Visitors Authority to implement the Truckee River Recreational Master Plan as adopted by the City of Reno, the City of Sparks and Washoe County through a public review process. The money must be used to plan, obtain permits for, design and construct not more than four projects along the Truckee River that would enhance the recreational enjoyment, aquatic habitat and water quality of the Truckee River. The money must be expended on the following projects but is not limited to Rock Park, Pioneer Diversion Dam, Ambrose Park and Idlewild Park.

2. The Interim Finance Committee shall allocate the money appropriated pursuant to subsection 1 upon notification that the City of Reno, the City of Sparks and Washoe County have committed to expend, in total, an equal amount of money on Truckee River improvement related projects. For the purpose of this section, Truckee River improvement related projects include any public project to improve the Truckee River for watershed protection, watershed restoration, recreation or flood control.

3. Upon acceptance of the money allocated pursuant to subsection 2, the Reno-Sparks Convention and Visitors Authority shall prepare and transmit a report to the Interim Finance Committee on or before December 15, ~~[2006,]~~ 2008, that describes each expenditure made from the money allocated pursuant to subsection 2 from the date on which the money was received by the Reno-Sparks Convention and Visitors Authority through December 1, ~~[2006.]~~ 2008.

4. The Reno-Sparks Convention and Visitors Authority shall not assess an administrative fee or fine upon any local governing bodies relating to compliance with the provisions of subsections 2 and 3.

5. A public review and approval process, as determined by the City of Reno, the City of Sparks and Washoe County, must be completed before the commencement of construction of any project that uses money allocated pursuant to this section. Project design, construction

documents and funding processes related to any such project must be approved by each local governing body having jurisdiction over the project. Each such project must conform to the parameters of the Truckee River Flood Control Project and the Truckee River Operating Agreement.

6. Any remaining balance of the sums appropriated pursuant to subsection 1 must not be committed for expenditure after June 30, ~~[2007,]~~ 2009, and must be reverted to the State General Fund on or before September ~~[21, 2007,]~~ 18, 2009.

Sec. 9. ~~[NRS 244A.0344 is hereby repealed.] (Deleted by amendment.)~~

Sec. 9.5. 1. The board of county commissioners of a county whose population is 100,000 or more but less than 400,000 shall determine whether the following criteria for the minor league baseball stadium project, as defined in NRS 244A.0344, have been met before October 1, 2007:

(a) An agreement has been entered into with a minor league baseball team to play its home games at a baseball stadium that will be acquired, improved, equipped, operated and maintained within the county;

(b) If relocation of the minor league baseball team is required, approval for relocation of the team by the relevant league has been obtained;

(c) The site for the minor league baseball stadium has been acquired; and

(d) Any approval required for the construction or improvement of the minor league baseball stadium has been obtained.

2. If the board determines pursuant to subsection 1 that all the criteria set forth in that subsection have been met, the board shall, as soon as practicable, make a finding indicating that all the criteria for the minor league baseball stadium project have been met. Such a finding is conclusive absent fraud or abuse of discretion.

Sec. 10. ~~[This act becomes]~~

1. This section and sections 7, 8 and 9.5 of this act become effective upon passage and approval.

2. Sections 1 to 6, inclusive, of this act become effective on October 1, 2007, if the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 has not made a finding pursuant to section 9.5 of this act.

†

TEXT OF REPEALED SECTION

~~244A.0344 "Minor league baseball stadium project" defined. "Minor league baseball stadium project" means a baseball stadium which can be used for the home games of an AA or AAA minor league professional baseball team and for other purposes, including structures, buildings and other improvements and equipment therefor, parking facilities, and all other appurtenances necessary, useful or desirable for a minor league baseball stadium, including, without limitation, all types of property therefor.]~~

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 222.

Bill read second time.

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

Amendment No. 307.

"SUMMARY—Creates the Nye County Water ~~[Authority]~~ District. (BDR S-317)"

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

Legislative Counsel's Digest:

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

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

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

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

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

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

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

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

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

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

WHEREAS, ~~Inhabited areas of Nye County are remote from any established water system, thus dictating that indispensable activities such as water service be administered by a governmental entity created for~~ The well-being of the residents of Nye County ~~[;]~~, the long-term economic development of Nye County and the protection of the environment of Nye County could best be served by the creation of a single governmental entity, the purpose of which is to secure and develop sustainable sources of water; and

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

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

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

Sec. 2. ~~["Authority" means the Nye County Water Authority created pursuant to section 6 of this act.] (Deleted by amendment.)~~

Sec. 3. "Board" means the Governing Board of the ~~the [Authority.] District~~.

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

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

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

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

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

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

- (a) One member ~~[from]~~ who is a resident of Beatty or the Amargosa area;
- (b) One member ~~[from]~~ who is a resident of the Tonopah area;
- (c) ~~[One member from]~~ Three members who are residents of the Pahrump Valley;
- (d) One member ~~[from northern Nye County]~~;
- ~~(e) One member from a privately owned utility company regulated by the Public Utilities Commission of Nevada and located in the Pahrump Valley;~~
- ~~(f) One~~ who is a resident of the area in Nye County known as Currant Creek or the area known as Smoky Valley; and
- (e) In addition to the members appointed pursuant to paragraphs (a), (b) and (d), one member ~~[from a nonprofit or municipal utility located]~~ who is a resident of an area in Nye County ~~[; and~~
- ~~(g) One member of the Commission.] other than the Pahrump Valley.~~

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

4. Except as otherwise provided in subsection 5, after the initial terms, each member of the Board serves for a term of 2 years. A vacancy on the Board must be filled in the same manner as the original appointment. A member may be reappointed.

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

Sec. 8. 1. The ~~[Authority]~~ District has the following powers:

- (a) To have perpetual succession.
- (b) To sue and be sued in the name of the ~~[Authority]~~ District in all courts or tribunals of competent jurisdiction.
- (c) To adopt a seal and alter it at the pleasure of the ~~[Authority]~~ District.
- (d) To enter into contracts, and employ and fix the compensation of staff and professional advisers.
- (e) To incur indebtedness pursuant to chapters 271 and 318 of NRS and to issue bonds and provide for medium-term obligations pursuant to chapter 350 of NRS, to pay, in whole or in part, the costs of acquiring, constructing and

operating any lands, easements, water rights, water, waterworks or projects, conduits, pipelines, wells, reservoirs, structures, machinery and other property or equipment useful or necessary to store, convey, supply or otherwise deal with water, and otherwise to carry out the powers set forth in this section. For the purposes of NRS 350.572, sections 1 to 12, inclusive, of this act do not expressly or impliedly require an election before the issuance of a security or indebtedness pursuant to NRS 350.500 to 350.720, inclusive, if the obligation is payable solely from pledged revenues, but an election must be held before incurring a general obligation.

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

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

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

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

connection with providing ~~[water]~~ *a service regulated by the Public Utilities Commission of Nevada* in a service ~~[area]~~ *territory* located within or adjacent to the ~~[Authority.] District.~~

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

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

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

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

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

out any definite plan or system of work for any of the purposes described in sections 1 to 12, inclusive, of this act.

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

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

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

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

(2) The wasteful use of water within the ~~the [Authority]~~ District.

(3) The interference with or diminution of water or water rights within the ~~the [Authority]~~ District.

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

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

(p) To sell and distribute water under the control of the ~~the [Authority]~~ District, without preference, to any natural person, firm, corporation, association, district, agency or inhabitant, public or private, for use within the service area, to fix, establish and adjust rates, classes of rates, terms and conditions for the sale and use of such water, and to sell water for use outside the service area upon a finding by the Board that there is a surplus of water above that amount required to serve customers within the service area.

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

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

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

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

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

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

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

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

Sec. 9. 1. The Board shall:

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

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

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

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

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

(f) Delegate and redelegate to officers of the ~~Authority~~ District the power to employ necessary executives, clerical workers, engineering assistants and laborers, and to retain legal, accounting or engineering services, subject to such conditions and restrictions as may be imposed by the Board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 229.

Bill read second time.

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

Amendment No. 42.

"SUMMARY—Provides for the registration and regulation of warrantors of vehicle protection products and related sellers and warranty administrators of such products. (BDR 57-1137)"

"AN ACT relating to warrantors of vehicle protection products; requiring the registration and regulation of warrantors and related sellers and warranty administrators; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill enacts a new chapter of the Nevada Revised Statutes regulating the business of providing warranties for vehicle protection products. Section 11 of this bill defines "vehicle protection product" to include certain devices, systems or services for protecting a vehicle that include a written warranty. Section 16 of this bill prohibits selling vehicle protection products without complying with the provisions of the new chapter. Section 17 of this bill requires registration of warrantors of vehicle protection products, and authorizes the Commissioner of Insurance to establish a fee for registration or renewal thereof. Section 19 of this bill establishes requirements for policies of warranty reimbursement insurance. Section 20 of this bill specifies the requirements for warranties for vehicle protection products. Sections ~~23, 24 and 29~~ 23, 24 and 29 of this bill provide for *the* administration and enforcement of the provisions of the new chapter by the Commissioner and the Division of Insurance of the Department of Business and Industry.

This bill applies to all vehicle protection products marketed, offered for sale, sold, made, issued or administered on or after January 1, 2008.

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

Section 1. Title 57 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 29, inclusive, of this act.

Sec. 2. *This chapter may be known and cited as the Nevada Vehicle Protection Product Act.*

Sec. 3. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 15, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Administrator" means a third party other than the warrantor who is designated by the warrantor to be responsible for the administration of a warranty.*

Sec. 5. *"Holding company" means a corporation or other business entity which owns at least 51 percent of the equity voting securities of the warrantor and which has a net worth of at least \$50,000,000 as established by:*

- 1. The most recent Form 10-K or Form 20-F filed by such holding company with the Securities and Exchange Commission; or*
- 2. If the holding company does not file with the Securities and Exchange Commission, the audited financial statements of the holding company.*

Sec. 6. *"Incidental costs" means expenses specified in the warranty incurred by the warranty holder relating to the failure of the vehicle protection product to perform as provided in the warranty. The term includes, without limitation, insurance policy deductibles, rental vehicle charges, the difference between the actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle, sales taxes, registration fees, transaction fees and mechanical inspection fees.*

Sec. 7. *"Proof of financial responsibility" means evidence satisfactory to the Commissioner that:*

- 1. The warrantor has filed with the Division a true and correct copy of a warranty reimbursement insurance policy containing the provision required in section 19 of this act, demonstrating that the warrantor is insured under such a policy issued by an insurer ~~licensed~~ authorized or eligible to do business in this State and providing that the insurer shall pay to, or on behalf of, the warrantor 100 percent of all sums that the warrantor is legally obligated to pay according to the warrantor's contractual obligations under the warranty;*

- 2. The warrantor has a net worth or stockholders' equity of \$50,000,000; ~~for~~*

- 3. The warrantor is subject to a guaranty issued by a holding company of the obligations of the warrantor relating to any warranty issued by the warrantor in this State ~~for~~; or*

4. The warrantor:

(a) Maintains a reserve account that is subject to examination by the Commissioner at any time and that contains at all times an amount of money equal to at least 40 percent of the gross consideration received by the warrantor for any unexpired warranties, less any claims paid on the unexpired warranties; and

(b) Deposits with the Commissioner security in an amount that is the greater of \$25,000 or 5 percent of the gross consideration received by the warrantor for any unexpired warranties, less any claims paid on those unexpired warranties, which security must be:

(1) A surety bond issued by a surety company authorized to do business in this State;

(2) Securities of the type eligible for deposit pursuant to NRS 682B.030;

(3) Cash;

(4) An irrevocable letter of credit issued by a financial institution approved by the Commissioner; or

(5) In any other form prescribed by the Commissioner.

Sec. 8. "Seller" means any person, other than a warrantor, who markets, offers for sale, solicits a sale of or sells a vehicle protection product.

Sec. 9. "Service contract" has the meaning ascribed to it in NRS 690C.080.

Sec. 10. "Vehicle" has the meaning ascribed to it in NRS 482.135.

Sec. 11. "Vehicle protection product" means a device, system or service for protecting a vehicle, including, without limitation, alarm systems, products for marking body parts, steering locks, window-etch products, pedal and ignition locks, fuel- and ignition-killing switches, and electronic, radio and satellite tracking devices, that:

1. Is installed on or applied to a vehicle;
2. Is designed to prevent loss or damage to a vehicle from a specific cause; and
3. Includes a warranty.

Sec. 12. "Warrantor" means a person who is contractually obligated to a warranty holder under the terms of a warranty. The term does not include a licensed insurer providing a warranty reimbursement insurance policy.

Sec. 13. "Warranty" means a written agreement by a warrantor that provides if the vehicle protection product fails to prevent loss or damage to a vehicle from a specified cause or causes, the warrantor shall pay to, or on behalf of, the warranty holder specified incidental costs as a result of the failure of the vehicle protection product to perform pursuant to the terms of the agreement.

Sec. 14. "Warranty holder" means a person who purchases a vehicle protection product or who is a permitted transferee of such a product.

Sec. 15. "Warranty reimbursement insurance policy" means a policy of insurance that is issued to a warrantor to provide reimbursement to the warrantor, or to pay on behalf of the warrantor, all covered contractual

obligations incurred by the warrantor under the terms and conditions of the warranty issued by the warrantor.

Sec. 16. 1. *No vehicle protection product may be marketed, offered for sale, sold, made, issued or administered in this State unless the seller and warrantor, and, if applicable, the administrator, comply with the provisions of this chapter.*

2. *The provisions of this chapter:*

(a) *Do not apply to:*

(1) *A provider of a service contract who does not sell vehicle protection products.*

(2) *Warranties, indemnity agreements and guarantees that are not provided as a part of a vehicle protection product.*

(b) *Do not require sellers or administrators to register pursuant to this chapter.*

(c) ~~*Are*~~ *Except as otherwise provided in subsection 3, are the exclusive regulatory requirements applicable to sellers, warrantors and administrators under the Code in connection with the marketing, offering for sale, sale, making, issuance or administration of vehicle protection products, including, without limitation, the provisions of chapter 690C of NRS.*

3. *Sellers, warrantors and administrators in connection with the marketing, offering for sale, sale, making, issuance or administration of vehicle protection products are not subject to the provisions of title 57 of NRS, including, without limitation, the provisions of chapters 680A and 690C of NRS, except, when applicable, the provisions of:*

(a) *NRS 679A.190;*

(b) *NRS 679B.020 to 679B.300, inclusive;*

(c) *NRS 679B.310 to 679B.370, inclusive;*

(d) *NRS 679B.600 to 679B.690, inclusive;*

(e) *NRS 685B.090 to 685B.190, inclusive;*

(f) *NRS 686A.010 to 686A.090, inclusive;*

(g) *NRS 686A.160 to 686A.187, inclusive; and*

(h) *NRS 686A.260, 686A.270, 686A.280 and 686A.310.*

Sec. 17. 1. *A person may not act as a warrantor or represent to the public that he is a warrantor unless the person is registered with the Division.*

2. *The Commissioner shall prescribe the form for registration, which must include the following information:*

(a) *The warrantor's name, any fictitious names under which the warrantor does business in the State, and the mailing or street address and telephone number of the warrantor's principal office.*

(b) *The name and address of the warrantor's agent for service of process in the State if other than the warrantor.*

(c) *The names of the warrantor's executive officer or officers directly responsible for the warrantor's vehicle protection product business.*

(d) *The name, address and telephone number of any administrators designated by the warrantor to be responsible for the administration of vehicle protection product warranties in this State.*

(e) *A statement establishing proof of financial responsibility by the warrantor and accompanied by:*

(1) *A copy of the warranty reimbursement insurance policy or policies;*
or

(2) *Other supporting documents and information required by this chapter.*

(f) *A copy of each warranty the warrantor proposes to use in this State.*

➤ *Any proprietary financial information required by subparagraph (2) of paragraph (e) must be accepted and maintained by the Division as confidential and not subject to public disclosure.*

3. *Each registration must be renewed annually by the warrantor in accordance with regulations adopted by the Commissioner.*

4. *If a warrantor fails to renew its registration by the deadline prescribed by regulation, the Division shall issue written notice of such failure to the warrantor by first-class mail to its last known address. The warrantor must renew the registration within 30 days after the date of the notice. The Commissioner shall terminate the registration of any person who fails to renew his registration within the period prescribed by this subsection.*

5. *The warrantor shall submit in writing any change in the information required by subsection 2 within 30 days after such change.*

6. *The Commissioner may charge each warrantor a reasonable fee, not to exceed ~~+\$250+~~ \$1,000 annually, for the cost of processing the initial registration and annual renewals and for maintaining necessary records.*

Sec. 18. 1. *No vehicle protection product may be marketed, offered for sale, sold, made, issued or administered in this State unless the warrantor submits to the Commissioner satisfactory proof of financial responsibility.*

2. *No financial requirements or standards of responsibility may be imposed on warrantors by the Division or the Commissioner other than that required pursuant to subsection 1.*

Sec. 19. *No warranty reimbursement insurance policy may be marketed, offered for sale, sold, made, issued or administered in this State unless the policy contains in substance the following provisions:*

1. *The issuer of the policy shall reimburse or pay on behalf of the warrantor all covered sums which the warrantor is legally obligated to pay or shall provide the services that the warrantor is legally obligated to perform according to the contractual obligations under the provisions of the warranty;*

2. *If payment due under the terms of the warranty is not provided by the warrantor within 60 days after ~~proof of loss has been filed~~ the warrantor has been notified of a claim by the warranty holder according to the terms of the warranty, ~~by the warranty holder,~~ the warranty holder may file directly with the issuer of the policy for reimbursement;*

3. *The issuer of the policy that insures a warranty shall be deemed to have received payment of the premium if the warranty holder paid for the vehicle protection product and the insurer's liability under the policy may not be reduced or relieved by a failure of the warrantor, for any reason, to report the issuance of a warranty to the insurer; and*

4. *With regard to the cancellation of the policy:*

(a) *The issuer of the policy shall not cancel the policy until a notice of cancellation in writing has been delivered to the Commissioner and sent by first-class mail to each insured warrantor.*

(b) *The cancellation of the policy must not reduce the issuer's responsibility for vehicle protection products sold before the date of cancellation.*

(c) *If an insurer cancels a policy that a warrantor has filed with the Commissioner, the warrantor shall:*

(1) *File a copy of a new policy with the Commissioner, before the termination of the prior policy, providing no lapse in coverage following the termination of the prior policy; or*

(2) *Discontinue offering warranties as of the termination date of the policy until a new policy becomes effective and is accepted by the Commissioner.*

Sec. 20. 1. *Every warranty marketed, offered for sale, sold, made, issued or administered in this State must state:*

(a) *The names of the warrantor, the seller and the warranty holder and, if applicable, the administrator.*

(b) *The address of the warrantor and, if applicable, the administrator.*

(c) *The total purchase price and the terms under which it is to be paid.*

(d) *The procedure for making a claim, including the telephone number for use by the warranty holder in submitting a claim.*

(e) *The payments or performance to be provided under the warranty, including payments for incidental costs, the manner of calculation or determination of payments or performance, and any limitations, exceptions or exclusions.*

(f) *All the obligations and duties of the warranty holder, including, without limitation, the duty to protect against any further damage to the vehicle and the obligation to notify the warrantor in advance of any repair, or other similar requirements, if any.*

(g) *Any terms, restrictions or conditions governing transferability and cancellation of the warranty, if any.*

(h) *A disclosure that reads substantially as follows:*

This agreement is a product warranty and is not insurance.

(i) *Whether performance of the obligations of the warrantor to the warranty holder are guaranteed under a warranty reimbursement insurance policy or subject to the general creditworthiness of the warrantor established by proof of financial responsibility pursuant to this chapter.*

(j) If the obligations of the warrantor are subject to a warranty reimbursement insurance policy:

(1) The warranty holder is entitled to make a direct claim against the issuer of the warranty reimbursement insurance policy upon the failure of the warrantor to pay any claim or meet any obligation under the terms of the warranty within 60 days after ~~proof of loss has been filed with~~ the warrantor ~~has been notified of a claim by the warranty holder according to the terms of the warranty~~; and

(2) The name and address of the issuer of the warranty reimbursement insurance policy.

2. Disclosures of the purchase price as required by paragraph (c) of subsection 1 and information concerning the issuer of the warranty reimbursement insurance policy as required by paragraph (j) of subsection 1 may be added at the time of sale of the vehicle protection product and are not required to be preprinted on the written form of warranty.

3. Incidental costs may be reimbursed under the provisions of the warranty in either a fixed amount specified in the warranty or sales agreement or by the use of a formula itemizing specific incidental costs incurred by the warranty holder.

Sec. 21. 1. A vehicle protection product is not ~~and must not be interpreted to be~~ a form of insurance.

2. Unless otherwise licensed as an insurance company, a warrantor shall not use in its name, contracts or literature any of the words "insurance," "casualty," "surety" or "mutual," or any other words descriptive of the insurance, casualty or surety business or deceptively similar to the name or description of any insurance or surety corporation or any other warrantor. A warrantor may use the term "guaranty" or a similar word in the warrantor's name.

3. A seller or warrantor may not require as a condition of financing that a retail purchaser of a vehicle purchase a vehicle protection product.

4. No person may require the purchase of a vehicle protection product as a condition for the approval of a loan or for the purchase of a vehicle.

Sec. 22. 1. All warrantors shall keep accurate accounts, books and records concerning transactions subject to the requirements of this chapter.

2. A warrantor's accounts, books and records must include:

(a) Copies of all warranties;

(b) The name and address of each warranty holder; and

(c) The dates, amounts and descriptions of all receipts, claims and expenditures.

3. A warrantor shall retain all required accounts, books and records pertaining to each warranty holder for at least 2 years after the specified period of coverage has expired. A warrantor discontinuing business in this State shall maintain its records until it furnishes the Commissioner satisfactory proof that it has discharged all obligations to warranty holders in this State.

4. Warrantors shall make all accounts, books and records concerning transactions regulated under this chapter available to the Commissioner for examination.

Sec. 23. The Commissioner ~~may~~ may adopt regulations:

1. ~~May adopt regulations which~~ Which are consistent with and necessary to implement the provisions of this chapter.

2. ~~Shall adopt regulations prescribing~~ Prescribing the conditions under which surplus lines insurers may be prohibited from underwriting a warranty.

Sec. 24. 1. The Division may conduct examinations of warrantors, sellers and administrators to enforce the provisions of this chapter and protect the interests of warranty holders in this State.

2. Upon reasonable prior written request of the Commissioner, a warrantor shall make available to the Division for examination and duplication all accounts, books and records concerning vehicle protection products sold by the warrantor that are reasonably necessary to determine compliance with this chapter.

Sec. 25. ~~1. Except as otherwise provided in section 26 of this act, whenever it appears to the Commissioner that a warrantor, seller or administrator has committed or is about to commit a violation of any provision of this chapter, or of any regulation or order of the Commissioner relating thereto, the Commissioner may issue an order:~~

~~(a) Directing the warrantor, seller or administrator to cease and desist from engaging in further acts, practices or transactions that violate the provisions or requirements of this chapter;~~

~~(b) Prohibiting the warrantor, seller or administrator from marketing, offering for sale, selling, making, issuing or administering vehicle protection products in violation of this chapter;~~

~~(c) Imposing an administrative penalty on that warrantor, seller or administrator pursuant to section 29 of this act;~~

~~2. Before issuing any order pursuant to subsection 1, the Commissioner must:~~

~~(a) Serve a written notice and specificity of charges upon the warrantor, seller or administrator;~~

~~(b) Conduct a hearing upon reasonable prior written notice of not less than 30 days after service of the notice and specificity of charges; and~~

~~(c) Establish by substantial evidence a violation of this chapter by the warrantor, seller or administrator.~~ (Deleted by amendment.)

Sec. 26. ~~1. The Commissioner may, without prior notice and hearing, issue an emergency order suspending the registration of a warrantor from marketing, offering for sale, selling, making, issuing or administering vehicle protection products if the Commissioner reasonably believes that the warrantor has become, or is about to become, insolvent.~~

~~2. A person aggrieved by an emergency order issued pursuant to subsection 1 may request a hearing before the Commissioner. The hearing~~

~~request must be filed with the Division within 20 days after the date the emergency order is effective, and unless agreed upon by the parties to the proceeding, the Commissioner must conduct the hearing within 15 days after receipt of the hearing request.] (Deleted by amendment.)~~

Sec. 27. ~~[A person aggrieved by a final order of the Commissioner pursuant to section 25 or 26 of this act may petition for judicial review pursuant to chapter 233B of NRS.] (Deleted by amendment.)~~

Sec. 28. ~~[The Commissioner may bring an action in district court to:~~
~~1. Enjoin threatened or existing violations of this chapter or of any regulation or order of the Commissioner relating thereto; and~~
~~2. Recover restitution on behalf of persons aggrieved by any such violations.] (Deleted by amendment.)~~

Sec. 29. 1. A person who is found to have violated this chapter or any regulation or order of the Commissioner relating thereto may be ordered to pay to the Division an administrative penalty in an amount, determined by the Commissioner, of not more than \$500 per violation and not more than \$10,000 in the aggregate for all violations of a similar nature.

2. As used in this section, "violations of a similar nature" means violations consisting of the same or a similar course of conduct, action or practice, without regard to the number of occurrences of the conduct, action or practice, that are determined to be a violation of this chapter.

Sec. 30. This act applies to all vehicle protection products marketed, offered for sale, sold, made, issued or administered on or after January 1, 2008. The adoption of this act must not be interpreted or construed to mean that a vehicle protection product warranty was insurance under or otherwise regulated by the Nevada Insurance Code before January 1, 2008. The failure of any person to comply with this act before January 1, 2008, is not admissible in any court proceeding, administrative proceeding, arbitration or alternative dispute resolution proceeding and may not otherwise be used to prove that the action of any person or the affected vehicle protection product was unlawful or otherwise improper.

Sec. 31. The Commissioner of Insurance shall adopt ~~any~~ regulations considered necessary to implement sections 17, 18 and 19 of this act on or before ~~October~~ December 1, 2007.

Sec. 32. This act becomes effective:

1. For the purposes of the adoption of regulations by the Commissioner of Insurance, upon passage and approval.

2. For all other purposes, on January 1, 2008.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 230.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 96.

"SUMMARY—~~[Requires person signing]~~ *Makes various changes concerning a petition for initiative or referendum.* ~~[to print given name followed by surname on petition.]~~ (BDR 24-180)"

"AN ACT relating to elections; requiring that a person signing a petition for an initiative or a referendum ~~[shall]~~ print his given name followed by his surname on the petition ~~[;]~~ *before his signature; revising the time for submitting certain documents circulated with certain petitions; revising the time for performing certain actions concerning an initiative or referendum;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Secretary of State to adopt regulations for the format of signatures on a petition for an initiative or referendum. (NRS 295.055) Section 1 of this bill provides that the format for the signatures must require a person who signs a petition for an initiative or referendum to print his given name followed by his surname on the petition ~~[;]~~ *before his signature.*

Existing law requires that the signature of a person on a petition for an initiative or referendum for a city or county must be followed by the address of the person signing and the date on which the petition was signed. (NRS 295.095, 295.140, 295.205) Sections 4-6 of this bill require that, in addition to the address of the person signing a petition for an initiative or referendum for a city or county and the date on which the petition was signed, the signature of the person signing the petition must be ~~[followed]~~ *preceded* by the printed given name followed by the surname of the person signing the petition.

Section 2 of this bill revises the deadline for the submission of the signed documents circulated with a petition for initiative that proposes an amendment to the Constitution from the third Tuesday in June to the third Tuesday in May.

Section 3 of this bill revises from 30 business days to 15 business days the time for: (1) filing a challenge to the description of the effect of an initiative or referendum; (2) setting a date for a hearing on such a challenge; and (3) setting a date for a hearing on a challenge to the legal sufficiency of a petition for initiative or referendum.

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

Section 1. NRS 295.055 is hereby amended to read as follows:

295.055 1. The Secretary of State shall by regulation specify:

(a) The format for the signatures on a petition for an initiative or referendum and make free specimens of the format available upon request. *The regulations must ensure that the format includes, without limitation, that:*

(1) *In addition to signing the petition, a person who signs a petition shall print his given name followed by his surname on the petition ~~and~~ before his signature.*

(2) Each signature must be dated.

(b) The manner of fastening together several sheets circulated by one person to constitute a single document.

2. Each document of the petition must bear the name of a county, and only registered voters of that county may sign the document.

3. A person who signs a petition may request that the county clerk remove his name from it by transmitting his request in writing to the county clerk at any time before the petition is filed with the county clerk.

Sec. 2. NRS 295.056 is hereby amended to read as follows:

295.056 1. Before a petition for initiative or referendum is filed with the Secretary of State, the petitioners must submit to each county clerk for verification pursuant to NRS 293.1276 to 293.1279, inclusive, the document or documents which were circulated for signature within his county. The clerks shall give the person submitting a document or documents a receipt stating the number of documents and pages and the person's statement of the number of signatures contained therein.

2. If a petition for initiative proposes a statute or an amendment to a statute, the document or documents must be submitted not later than the second Tuesday in November of an even-numbered year.

3. If a petition for initiative proposes an amendment to the Constitution, the document or documents must be submitted not later than the third Tuesday in ~~June~~ May of an even-numbered year.

4. If the petition is for referendum, the document or documents must be submitted not later than the third Tuesday in May of an even-numbered year.

5. All documents which are submitted to a county clerk for verification must be submitted at the same time.

Sec. 3. NRS 295.061 is hereby amended to read as follows:

295.061 1. The description of the effect of an initiative or referendum required pursuant to NRS 295.009 may be challenged by filing a complaint in the First Judicial District Court not later than ~~30~~ 15 days, Saturdays, Sundays and holidays excluded, after a copy of the petition is initially placed on file with the Secretary of State pursuant to NRS 295.015. All affidavits and documents in support of the challenge must be filed with the complaint. The court shall set the matter for hearing not later than ~~30~~ 15 days after the complaint is filed and shall give priority to such a complaint over all criminal proceedings.

2. The legal sufficiency of a petition for initiative or referendum may be challenged by filing a complaint in district court not later than 7 days, Saturdays, Sundays and holidays excluded, after the petition is certified as sufficient by the Secretary of State. All affidavits and documents in support of the challenge must be filed with the complaint. The court shall set the matter for hearing not later than ~~30~~ 15 days after the complaint is filed and

shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings.

~~[Sec. 2.]~~ Sec. 4. NRS 295.095 is hereby amended to read as follows:

295.095 1. Any five registered voters of the county may commence initiative or referendum proceedings by filing with the county clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

2. Initiative petitions must be signed by a number of registered voters of the county equal to 15 percent or more of the number of voters who voted at the last preceding general election in the county.

3. Referendum petitions must be signed by a number of registered voters of the county equal to 10 percent or more of the number of voters who voted at the last preceding general election in the county.

4. A petition must be submitted to the county clerk for verification, pursuant to NRS 295.250 to 295.290, inclusive, not later than:

(a) One hundred and eighty days after the date that the affidavit required by subsection 1 is filed with the county clerk; or

(b) One hundred and thirty days before the election,
↪ whichever is earlier.

5. A petition may consist of more than one document, but all documents of a petition must be uniform in size and style, numbered and assembled as one instrument for submission. Each signature must be executed in ink or indelible pencil, be preceded by the printed given name followed by the surname of the person signing and be followed by the address of the person signing ~~for the printed given name followed by the surname of the person signing~~ and the date on which he signed the petition. All signatures on a petition must be obtained within the period specified in subsection 4. Each document must contain, or have attached thereto throughout its circulation, the full text of the ordinance proposed or sought to be reconsidered.

6. Each document of a petition must have attached to it when submitted an affidavit executed by the circulator thereof stating:

(a) That he personally circulated the document;
(b) The number of signatures thereon;
(c) That all the signatures were affixed in his presence;
(d) That he believes them to be genuine signatures of the persons whose names they purport to be; and

(e) That each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

7. The county clerk shall issue a receipt to any person who submits a petition pursuant to this section. The receipt must set forth the number of:

(a) Documents included in the petition;
(b) Pages in each document; and

(c) Signatures that the person declares are included in the petition.

~~[Sec. 3.]~~ Sec. 5. NRS 295.140 is hereby amended to read as follows:

295.140 1. Whenever 10 percent or more of the registered voters of any county of this State, as shown by the number of registered voters who voted at the last preceding general election, express their wish that any act or resolution enacted by the Legislature, and pertaining to that county only, be submitted to the vote of the people, they shall submit to the county clerk a petition, which must contain the names and residence addresses of at least 10 percent of the registered voters of that county, demanding that a referendum vote be had by the people of the county at the next general election upon the act or resolution on which the referendum is demanded.

2. A petition must be submitted to the county clerk for verification, pursuant to NRS 295.250 to 295.290, inclusive, not later than 130 days before the time set for the next succeeding general election.

3. A petition may consist of more than one document, but all documents of a petition must be uniform in size and style, numbered and assembled as one instrument for submission. Each signature must be executed in ink or indelible pencil , be preceded by the printed given name followed by the surname of the person signing and be followed by the address of the person signing ~~f, the printed given name followed by the surname of the person signing~~ and the date on which he signed the petition. Each document must contain, or have attached thereto throughout its circulation, the full text of the act or resolution on which the referendum is demanded.

4. Each document of a petition must have attached to it when submitted an affidavit executed by the circulator thereof stating:

- (a) That he personally circulated the document;
- (b) The number of signatures thereon;
- (c) That all the signatures were affixed in his presence;
- (d) That he believes them to be genuine signatures of the persons whose names they purport to be; and
- (e) That each signer had an opportunity before signing to read the full text of the act or resolution on which the referendum is demanded.

5. The county clerk shall issue a receipt to any person who submits a petition pursuant to this section. The receipt must set forth the number of:

- (a) Documents included in the petition;
- (b) Pages in each document; and
- (c) Signatures that the person declares are included in the petition.

6. Within 20 days after a petition is submitted, the county clerk shall complete a certificate as to its sufficiency. Unless a request for review is filed pursuant to subsection 7, the certificate is a final determination as to the sufficiency of the petition.

7. If a petition is certified insufficient, the person who submitted the petition may, within 2 days after receiving a copy of the certificate, file a request that it be reviewed by the board of county commissioners. The board shall review the certificate at its next meeting following the filing of the

request and approve or disapprove it, and the determination of the board is a final determination as to the sufficiency of the petition.

8. A final determination as to the sufficiency of a petition is subject to judicial review. If the final determination is challenged by filing a complaint in district court, the court shall set the matter for hearing not later than 3 days after the complaint is filed and shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings. A final determination of insufficiency, even if sustained upon judicial review, does not prejudice the filing of a new petition for the same purpose.

~~{Sec. 4.}~~ Sec. 6. NRS 295.205 is hereby amended to read as follows:

295.205 1. Any five registered voters of the city may commence initiative or referendum proceedings by filing with the city clerk an affidavit:

- (a) Stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form;
- (b) Stating their names and addresses;
- (c) Specifying the address to which all notices to the committee are to be sent; and
- (d) Setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

2. Initiative petitions must be signed by a number of registered voters of the city equal to 15 percent or more of the number of voters who voted at the last preceding city election.

3. Referendum petitions must be signed by a number of registered voters of the city equal to 10 percent or more of the number of voters who voted at the last preceding city election.

4. A petition must be submitted to the city clerk for verification, pursuant to NRS 295.250 to 295.290, inclusive, not later than:

- (a) One hundred and eighty days after the date that the affidavit required by subsection 1 is filed with the city clerk; or
 - (b) One hundred and thirty days before the election,
- whichever is earlier.

5. A petition may consist of more than one document, but all documents of a petition must be uniform in size and style, numbered and assembled as one instrument for submission. Each signature must be executed in ink or indelible pencil, be preceded by the printed given name followed by the surname of the person signing and be followed by the address of the person signing ~~f, the printed given name followed by the surname of the person signing,~~ and the date on which he signed the petition. All signatures on a petition must be obtained within the period specified in subsection 4. Each document must contain, or have attached thereto throughout its circulation, the full text of the ordinance proposed or sought to be reconsidered.

6. Each document of a petition must have attached to it when submitted an affidavit executed by the circulator thereof stating:

- (a) That he personally circulated the document;
- (b) The number of signatures thereon;

(c) That all the signatures were affixed in his presence;
 (d) That he believes them to be genuine signatures of the persons whose names they purport to be; and

(e) That each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

7. The city clerk shall issue a receipt to any person who submits a petition pursuant to this section. The receipt must set forth the number of:

- (a) Documents included in the petition;
- (b) Pages in each document; and
- (c) Signatures that the person declares are included in the petition.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 234.

Bill read second time.

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

Amendment No. 248.

"SUMMARY—Provides exception to competitive bidding procedures for certain contracts relating to redevelopment areas. (BDR 28-490)"

"AN ACT relating to public works; exempting contracts for certain projects within redevelopment areas from procedures for competitive bidding; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires that contracts for public works projects be awarded through procedures for competitive bidding. (NRS 338.1373-338.148) Existing law authorizes public bodies to redevelop blighted areas. (Chapter 279 of NRS) This bill exempts contracts for certain public improvement projects from procedures for competitive bidding. The projects exempted are those: (1) ~~that are~~ constructed within a redevelopment area ~~for~~ by a private developer for the benefit of a private development that consists of one or more buildings for which the estimated cost is \$20 million or more; (2) that a legislative body has determined, at a public hearing, directly benefit a redevelopment area ~~for~~ promote efficiency, coordination and economy in design and construction and mitigate any adverse effect upon the redevelopment area that is caused by ~~a redevelopment project;~~ the private development; (3) which would otherwise be considered public works; and (4) for which the developer will receive a monetary contribution or refund from a public body as reimbursement for a portion of the costs of the project. This bill also provides that such contracts are subject to the prevailing wage requirements of chapter 338 of NRS. ~~if the contract does not make the developer responsible for paying all of the initial construction costs of the project.~~

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

The provisions of chapter 332 of NRS, NRS 338.1373 to 338.148, inclusive, and chapter 339 of NRS do not apply to a contract under which a private developer constructs a public improvement project as described in section 3 of this act.

Sec. 2. NRS 338.050 is hereby amended to read as follows:

338.050 For the purpose of NRS 338.010 to 338.090, inclusive, *and section 1 of this act*, except as otherwise provided by specific statute, every workman who performs work for a public work covered by a contract therefor is subject to all of the provisions of NRS 338.010 to 338.090, inclusive, *and section 1 of this act*, regardless of any contractual relationship alleged to exist between such workman and his employer.

Sec. 3. Chapter 279 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The provisions of chapter 332 of NRS, NRS 338.1373 to 338.148, inclusive, and chapter 339 of NRS do not apply to a contract for a public improvement project:*

(a) That is constructed within a redevelopment area ~~by~~ by a private developer for the benefit of a private development that consists of one or more buildings for which the estimated cost is \$20,000,000 or more;

(b) That a legislative body has determined, at a public hearing, ~~directly~~
:

(1) Directly benefits a redevelopment area ~~for mitigates~~ ;

(2) Promotes efficiency, coordination and economy in design and construction; and

(3) Mitigates any adverse effect upon a redevelopment area that is caused by ~~the redevelopment project;~~ the private development, including, without limitation, disruption caused by construction activity;

(c) Which would otherwise qualify as a public work pursuant to NRS 338.010; and

(d) For which the developer will receive a monetary contribution or refund from a public body as reimbursement for a portion of the costs of the project.

2. ~~If, pursuant to the provisions of such a contract, the developer is not responsible for paying all of the initial construction costs of the project, the~~
The provisions of NRS 338.013 to 338.090, inclusive, apply to ~~the contract;~~
a contract described in subsection 1.

3. *As used in this section, "public improvement project" means any street, alley, curb, gutter, sidewalk, median, street lighting, traffic control equipment and signage, water system, sewerage system, drainage system, fire hydrant, utility facility or landscaping that will be owned by a public body.*

Sec. 4. NRS 279.382 is hereby amended to read as follows:

279.382 The provisions contained in NRS 279.382 to 279.685, inclusive, *and section 3 of this act* may be cited as the Community Redevelopment Law.

Sec. 5. NRS 279.384 is hereby amended to read as follows:

279.384 As used in NRS 279.382 to 279.685, inclusive, *and section 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 279.386 to 279.414, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 279.498 is hereby amended to read as follows:

279.498 ~~[Any]~~ *Except as otherwise provided in section 3 of this act*, any work of grading, clearing, demolition or construction in excess of \$10,000 undertaken by the agency must be done by contract after competitive bids.

Sec. 7. NRS 279.500 is hereby amended to read as follows:

279.500 1. The provisions of NRS 338.010 to 338.090, inclusive, *and section 1 of this act* apply to any contract for new construction, repair or reconstruction which is awarded on or after October 1, 1991, by an agency for work to be done in a *redevelopment* project.

2. If an agency provides property for development at less than the fair market value of the property, or provides financial incentives to the developer with a value of more than \$100,000, the agency must provide in the agreement with the developer that the development project is subject to the provisions of NRS 338.010 to 338.090, inclusive, *and section 1 of this act* to the same extent as if the agency had awarded the contract for the *redevelopment* project. This subsection applies only to the *redevelopment* project covered by the agreement between the agency and the developer. This subsection does not apply to future development of the property unless additional financial incentives with a value of more than \$100,000 are provided to the developer.

Sec. 8. This act becomes effective upon passage and approval.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 238.

Bill read second time.

The following amendment was proposed by the Committee on Human Resources and Education:

Amendment No. 420.

"SUMMARY—Provides for a program of empowerment schools. (BDR 34-112)"

"AN ACT relating to education; ~~authorizing the boards of trustees of school districts to establish~~ *establishing* a program of empowerment schools for the public schools ~~of the school district;~~ *in this State;* authorizing public schools to develop empowerment plans; prescribing the process for the

approval of empowerment plans by the *State Board of Education and the boards of trustees of school districts; [making appropriations;]* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 3 of this bill *establishes a program of empowerment schools for public schools within this State. Section 3 also* authorizes each board of trustees of a school district to create a design team for the school district ~~and to establish a program of empowerment schools;~~ *to advise the board of trustees on empowerment schools.* Section 4 of this bill ~~sets forth the criteria for a program of~~ *provides for the establishment of policies and procedures for schools that wish to convert to* empowerment schools.

Sections 5 and 6 of this bill address the requirements for a school to convert to an empowerment school, including the establishment of an empowerment team and the development of an empowerment plan. The principal of a public school located in a county whose population is 5,000 or less is not required to establish an empowerment team. ~~[The] Sections 6.3 and 6.5 of this bill require the~~ empowerment plan of a school ~~[must] to be~~ approved by the board of trustees of the school district *or, if the school is a charter school that is sponsored by the State Board of Education, the State Board,* before the school can operate as an empowerment school.

~~[Section 9 of this bill requires the Department of Education to develop a uniform method for evaluating the programs of empowerment schools and to report those findings on an annual basis.~~

~~Sections 11 and 12 of this bill make an appropriation to the Department of Education to provide assistance to the school districts in developing programs of empowerment schools.~~

~~During the 2006-2007 school year, Clark County School District authorized four schools to operate as empowerment schools. Section 13 of this bill makes an appropriation for the support of those four empowerment schools to continue during the 2007-2008 school year.~~

~~Sections 14 and 15 of this bill make an appropriation for the support of empowerment schools during the 2008-2009 school year. School districts may submit applications to the Department of Education for a grant of money.~~

~~Section 16 of this bill requires the Superintendent of Public Instruction to hire a coordinator for the programs of empowerment schools and appropriates money for that position.~~

~~Section 18 of this bill requires the Department of Education to submit to the Governor and the Legislature a report of the status of the programs of empowerment schools.~~

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

Section 1. Chapter 386 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, "empowerment school" means a public school operating under an empowerment plan developed ~~and approved~~ pursuant to section 6 of this act ~~and approved pursuant to section 6.3 or 6.5 of this act, as applicable.~~

Sec. 3. 1. ~~The board of trustees of a school district may establish~~ There is hereby established a program of empowerment schools for ~~the~~ public schools ~~of the school district~~ within this State. The program ~~must~~ does not include ~~a charter school or~~ a university school for profoundly gifted pupils.

2. Except as otherwise provided in this subsection, the board of trustees of a school district which is located:

(a) In a county whose population is less than 100,000 may approve public schools located within the school district to operate as empowerment schools.

(b) In a county whose population is 100,000 or more shall approve not less than 5 percent of the schools located within the school district to operate as empowerment schools.

➤ The total number of schools which operate as empowerment schools in this State must not exceed 100 schools. The Department shall adopt procedures to ensure compliance with the provisions of this subsection.

3. ~~If the~~ The board of trustees of a school district which participates in the program of empowerment schools shall, on or before September 1 of each year, provide notice to the Department of the number of schools within the school district that are approved to operate as empowerment schools for that school year.

4. The board of trustees of a school district ~~wishes to establish a~~ that participates in the program of empowerment schools ~~the board of trustees shall~~ may create a design team for the school district. ~~The~~ If such a design team is created, the membership of ~~each~~ the design team must consist of the following persons appointed by the board of trustees:

- (a) At least one representative of the board of trustees;
- (b) The superintendent of the school district, or his designee;
- (c) Parents and legal guardians of pupils enrolled in public schools in the school district;
- (d) Teachers and other educational personnel employed by the school district, including, without limitation, school administrators;
- (e) Representatives of organizations that represent teachers and other educational personnel;
- (f) Representatives of the community in which the school district is located and representatives of businesses within the community; and
- (g) Such other members as the board of trustees determines are necessary.

~~3. The~~

5. If a design team is created for a school district, the design team shall:

(a) Recommend ~~for a program of~~ policies and procedures relating to empowerment schools to the board of trustees of the school district; and

(b) Advise the board of trustees on issues relating to ~~the program of~~ empowerment schools.

~~4.7.6. The board of trustees of a school district may accept gifts, grants and donations from any source for the support of its program of the~~ empowerment schools ~~for within the school districts.~~

Sec. 4. 1. ~~A program of empowerment schools must~~ The board of trustees of a school district that participates in the program of empowerment schools may establish policies and procedures for public schools within the school district that wish to convert to empowerment schools which may provide for:

(a) The process by which a public school may convert to an empowerment school, including, without limitation, the development ~~and approval~~ of an empowerment plan for the school in accordance with section 6 of this act;

(b) Autonomy for the principal of each empowerment school to decide issues relating to the operation of the school, including, without limitation, the school schedule, governance, incentives for employees, staffing, budgeting and the provision of instruction;

~~(c) Accountability measures designed to ensure that pupils enrolled in an empowerment school are achieving certain goals and standards relating to academic achievement;~~

~~(d) A method for allocating money to each empowerment school;~~

~~(e) An evaluation of the program of empowerment schools, including, without limitation, an evaluation of each empowerment school within the school district;~~

~~(f) The opportunity for empowerment schools within the school district to offer an alternative schedule, including, without limitation, a longer school day or a longer school year, or both, and to offer school during the summer;~~

~~for (g) The process for the selection of empowerment schools and the approval of empowerment plans for those schools;~~

~~(h) The process for renewal of empowerment plans;~~

~~(i) The criteria for revocation of an empowerment plan for a school and the procedure for revocation;~~

~~(j) The time period for which empowerment plans will be approved; and~~

~~for (k) (d) Other matters as deemed necessary by the board of trustees for of a school district.~~

2. ~~In addition to the requirements of subsection 1, a program of empowerment schools for a~~ The board of trustees of a school district that participates in the program of empowerment schools shall adopt policies and procedures which provide for:

(a) Accountability measures designed to ensure that pupils enrolled in an empowerment school are achieving certain goals and standards relating to academic achievement;

(b) The process for the selection of empowerment schools and the approval of empowerment plans for those schools;

(c) The process for renewal of empowerment plans;

(d) The criteria for revocation of an empowerment plan for a school and the procedure for revocation; and

(e) The time period for which empowerment plans will be approved.

3. A school district that participates in the program of empowerment schools ~~school district located:~~

~~(a) In a county whose population is 100,000 or more, must~~ shall provide ~~school choice~~ a process for ~~pupils~~ a pupil who ~~reside~~ resides in the school district to attend ~~empowerment schools~~ :

(a) An empowerment school regardless of the school which the ~~pupils are~~ pupil is otherwise zoned to attend.

~~(b) In a county whose population is less than 100,000, may provide school choice for pupils who reside in the school district to attend empowerment schools regardless of the school which the pupils are otherwise zoned to attend.~~ A school that is not an empowerment school if the pupil is zoned to attend a school that converts to an empowerment school.

➡ The board of trustees of a school district must comply with the No Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq., when establishing provisions relating to school choice pursuant to this subsection.

~~3. If a school district provides school choice as part of its program of empowerment schools, the~~

4. An empowerment school shall:

(a) Enroll first the pupils who are zoned to attend that school.

(b) After the enrollment of pupils pursuant to paragraph (a), if the school has space available, enroll pupils who are not otherwise zoned to attend the school on the basis of a lottery system.

5. A school district is not required to provide transportation to a pupil who attends a public school which the pupil is not otherwise zoned to attend.

~~4. 6. A program of empowerment schools may include~~ school district that participates in the program of empowerment schools shall provide a procedure for an empowerment school to obtain a waiver from the requirements and regulations of the board of trustees of the school district. The board of trustees may not waive:

(a) The requirements of a state or federal law or regulation.

(b) A policy or requirement relating to safety, including, without limitation, hiring security personnel and following procedures designed to ensure the safety of the school, the personnel employed at the school and the pupils.

Sec. 5. 1. Except as otherwise provided in subsection 2, ~~if a school district has established a program of empowerment schools and~~ the principal of a public school within ~~the~~ a school district that participates in

~~the program of empowerment schools who wishes to participate in the program, the principal~~ convert to an empowerment school shall:

- (a) Establish an empowerment team for the school; and
- (b) Develop an empowerment plan for the school in consultation with:
 - (1) The empowerment team; and
 - (2) The school support team, if a school support team has been established for the school pursuant to NRS 385.3721.

2. The principal of a public school located in a county whose population is 5,000 or less may develop an empowerment plan for the school without establishing or consulting with an empowerment team. If a school support team has been established for the school, the principal shall develop the empowerment plan in consultation with the school support team.

3. An empowerment team for a school must consist of the following persons:

- (a) The principal of the school;
- (b) ~~Teachers~~ At least two but not more than four teachers and other licensed educational personnel who are employed at the school ~~and~~, selected by a recognized employee organization that represents licensed educational personnel within the school district;
- (c) ~~Other~~ At least two but not more than four employees, other than teachers and other licensed educational personnel, who are employed at the school ~~and~~, selected by an organization that represents those employees;
- (d) ~~Parents~~ At least two but not more than four parents and legal guardians of pupils enrolled in the school ~~and~~, selected by an association of parents established for the school;
- (e) ~~Representatives~~ At least two but not more than four representatives of the community or ~~in which the school is located and representatives of~~ businesses within the community;
- (f) The facilitator of the school support team, if a school support team has been established for the school pursuant to NRS 385.3721; and
- (g) ~~Persons who are otherwise affiliated with the school as determined necessary by the principal.~~ Such other persons as may be necessary to meet the requirements set forth in subsection 4.

4. Of the total number of members on an empowerment team for a school:

- (a) At least one member must have 5 years or more of experience in school finance;
- (b) At least one member must have 5 years or more of experience in school administration or human resources;
- (c) At least one member must have 5 years or more of experience in overseeing the academic programs and curriculum for a public school; and
- (d) At least one member must have 5 years or more of experience in the collection and analysis of data.

➤ The provisions of this subsection do not require the appointment of four persons if one, two or three such persons satisfy the qualifications.

5. A charter school that wishes to participate in the program of empowerment schools shall comply with the provisions of sections 2 to 10, inclusive, of this act. If a charter school is approved as an empowerment school, the charter school does not forfeit its status as a charter school.

Sec. 5.5. An empowerment team for a school shall:

1. Select, from among its members, a Chairman and a Vice Chairman.
2. Assist the principal in the development of the empowerment plan for the school.
3. Assist in the development of the proposed budget for the school and provide ongoing advice to the principal concerning the expenditure of money apportioned to the school.
4. Provide continued oversight of the school and assist in the management decisions for the school.

Sec. 6. 1. Each empowerment plan for a school must:

- (a) Set forth the manner by which the school will be governed;
- (b) Set forth the proposed budget for the school, including without limitation, the cost of carrying out the empowerment plan, and the manner by which the ~~budget~~ money apportioned to the school will be administered;
- (c) If a school support team has been established for the school pursuant to NRS 385.3721, require the principal and the empowerment team for the school to work in consultation with the school support team;
- (d) Prescribe the academic plan for the school, including, without limitation, the manner by which courses of study will be provided to the pupils enrolled in the school and any special programs that will be offered for pupils;
- (e) Prescribe the manner by which the achievement of pupils will be measured and reported for the school, including, without limitation, the results of the pupils on the examinations administered pursuant to NRS 389.015 and 389.550;
- (f) Prescribe the manner by which teachers and other licensed educational personnel will be selected and hired for the school ~~for~~, which must be determined and negotiated pursuant to chapter 288 of NRS;
- (g) Prescribe the manner by which all other staff for the school will be selected and hired ~~for~~, which must be determined and negotiated pursuant to chapter 288 of NRS;
- (h) Indicate whether the empowerment plan will offer an incentive pay structure for staff and a description of that pay structure, if applicable;
- (i) Indicate the intended ratio of pupils to teachers at the school, designated by grade level, which must comply with NRS 388.700 or 388.720, as applicable;
- (j) Provide a description of the professional development that will be offered to the teachers and other licensed educational personnel employed at the school;

(k) Prescribe the manner by which the empowerment plan will increase the involvement of parents and legal guardians of pupils enrolled in the school;

(l) Comply with the plan to improve the achievement of the pupils enrolled in the school prepared pursuant to NRS 385.357;

(m) Address the specific educational needs and concerns of the pupils who are enrolled in the school; and

(n) Set forth the calendar and schedule for the school.

2. If the empowerment plan includes an incentive pay structure, that pay structure must:

(a) Provide an incentive for all staff employed at the school;

(b) Set forth the standards that must be achieved by the pupils enrolled in the school and any other measurable objectives that must be met to be eligible for incentive pay; and

(c) Be in addition to the salary or hourly rate of pay negotiated pursuant to chapter 288 of NRS that is otherwise payable to the employee.

~~3. The principal of the school shall submit the proposed empowerment plan to the superintendent of the school district, or his designee. The superintendent, or his designee, shall assist the principal to ensure that the proposed empowerment plan complies with the program of empowerment schools established by the board of trustees pursuant to section 3 of this act. The superintendent, or his designee, shall provide preliminary approval of each proposed empowerment plan that complies with the program of the school district and forward each proposed empowerment plan to the board of trustees of the school district for final approval.~~

~~4. The board of trustees of a school district shall provide final approval of an empowerment plan submitted pursuant to subsection 3 if the plan complies with the program of empowerment schools of the school district and any regulations adopted by the State Board pursuant to section 10 of this act. If the board of trustees approves the empowerment plan, the president of the board of trustees and the principal shall sign the plan and indicate on the plan the period of time for which the plan is effective. If the board of trustees denies an empowerment plan for deficiencies, the board of trustees shall:~~

~~(a) Return the plan to the principal with a written statement indicating the reason for the denial; and~~

~~(b) Provide the principal with a reasonable opportunity to correct any deficiencies identified in the written statement and resubmit it for approval. An empowerment plan may be resubmitted not more than once in a school year.~~

~~5. An empowerment plan is not effective and a public school shall not operate as an empowerment school unless the plan is signed by the president of the board of trustees of the school district and the principal of the school.~~

~~6. The empowerment team for an empowerment school or the principal of an empowerment school located in a county whose population is 5,000 or less may submit a written request to the board of trustees of the school~~

~~district for an amendment to the empowerment plan approved pursuant to this section, including an explanation of the reason for the request.] An empowerment plan may:~~

~~(a) Request a waiver from a statute contained in this title or a regulation of the State Board or the Department.~~

~~(b) Identify the services of the school district which the school wishes to receive, including, without limitation, professional development, transportation, food services and discretionary services. Upon approval of the empowerment plan, the school district may deduct from the total apportionment to the empowerment school the costs of such services.~~

~~4. For purposes of determining the budget pursuant to paragraph (b) of subsection 1, if a public school which converts to an empowerment school is a:~~

~~(a) Charter school, the amount of the budget is the amount equal to the apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, and its proportionate share of any other money available from federal, state or local sources that the school or the pupils enrolled in the school are eligible to receive.~~

~~(b) Public school, other than a charter school, the empowerment team for the school shall have discretion of 90 percent of the amount of money from the state financial aid and local funds that the school district apportions for the school, without regard to any line-item specifications or specific uses determined advisable by the school district, unless the empowerment team determines that a lesser amount is necessary to carry out the empowerment plan.~~

~~Sec. 6.3. 1. The empowerment team of a public school, other than a charter school that is sponsored by the State Board, that develops an empowerment plan pursuant to section 6 of this act shall submit the proposed empowerment plan to the designee of the board of trustees appointed pursuant to this subsection for review and approval pursuant to this section. The board of trustees shall designate a person to review each proposed empowerment plan and recommend the approval or denial of the plan to the board of trustees.~~

~~2. The board of trustees shall approve or deny the empowerment plan. The approval or denial of an empowerment plan must be based solely upon the contents of the plan and may not consider the amount of money required to carry out the empowerment plan if the plan is within the limits of the total apportionment to the school pursuant to subsection 4 of section 6 of this act.~~

~~3. If the board of trustees approves an empowerment plan, the president of the board of trustees, the principal of the public school and the chairman of the empowerment team, if the principal is not the chairman, shall each sign the plan. The empowerment plan is effective for 3 years unless the empowerment team determines that the school will no longer operate under the plan or the board of trustees of the school district revokes the plan.~~

4. If the board of trustees denies an empowerment plan, the board of trustees shall:

(a) Return the plan to the empowerment team with a written statement indicating the reason for the denial; and

(b) Provide the empowerment team with a reasonable opportunity to correct any deficiencies identified in the written statement and resubmit it for approval. An empowerment plan may be resubmitted not more than once in a school year.

5. An empowerment plan for a public school is not effective and a public school shall not operate as an empowerment school unless the plan is signed by the president of the board of trustees of the school district, the principal of the public school and the chairman of the empowerment team, if the principal is not the chairman. If an empowerment plan includes a request for a waiver from a statute contained in this title or a regulation of the State Board or the Department, a public school may operate under the approved plan but the requested waivers from state law are not effective unless approved by the State Board pursuant to subsection 7.

6. The empowerment team may submit a written request to the board of trustees for an amendment to the empowerment plan approved pursuant to this section, including an explanation of the reason for the amendment. An amendment must be approved in the same manner as the empowerment plan was approved.

7. If the empowerment plan includes a request for a waiver from a statute or regulation, the board of trustees shall forward the approved empowerment plan to the State Board for review of the request for a waiver. The State Board shall review the empowerment plan and may approve or deny the request for a waiver from a statute or regulation unless the statute or regulation is required by federal law or is required to carry out federal law.

8. If the State Board approves the request for a waiver for a school, the Department shall provide written notice of the approval to the board of trustees of the school district that submitted the empowerment plan on behalf of the school.

9. If the State Board denies a request for a waiver, the State Board shall:

(a) Return the request to the school district with a written statement indicating the reason for the denial; and

(b) Provide the empowerment team with a reasonable opportunity to correct any deficiencies identified in the written statement and resubmit it for approval. A request for a waiver may be resubmitted by the school district, after the empowerment team corrects any deficiencies, not more than once in a school year.

Sec. 6.5. 1. The empowerment team of a charter school that is sponsored by the State Board which develops an empowerment plan pursuant to section 6 of this act shall submit the proposed plan to the

Department for transmission to the State Board for review and approval pursuant to this section.

2. The State Board shall review each proposed empowerment plan and approve or deny the plan, including a request for a waiver from a statute contained in this title or a regulation of the State Board or the Department, if applicable. The approval or denial of an empowerment plan must be based solely upon the contents of the plan and may not consider the amount of money required to carry out the empowerment plan if the plan is within the limits of the total apportionment to the charter school pursuant to subsection 4 of section 6 of this act.

3. If the State Board approves an empowerment plan, the President of the State Board, the principal of the charter school and the chairman of the empowerment team, if the principal is not the chairman, shall each sign the plan. The empowerment plan is effective for 3 years unless the empowerment team determines that the school will no longer operate under the plan or the State Board revokes the plan.

4. If the State Board denies an empowerment plan, the State Board shall:

(a) Return the plan to the empowerment team with a written statement indicating the reason for the denial; and

(b) Provide the empowerment team with a reasonable opportunity to correct any deficiencies identified in the written statement and resubmit it for approval. An empowerment plan may be resubmitted not more than once in a school year.

5. An empowerment plan for a charter school that is sponsored by the State Board is not effective and a charter school shall not operate as an empowerment school unless the plan is signed by the President of the State Board, the principal of the charter school and the chairman of the empowerment team, if the principal is not the chairman.

6. The empowerment team may submit a written request to the Department for an amendment to the empowerment plan approved pursuant to this section, including an explanation of the reason for the amendment. An amendment must be approved in the same manner as the empowerment plan was approved.

Sec. 6.7. 1. Each empowerment school, other than a charter school that is sponsored by the State Board, shall, on a quarterly basis, submit to the board of trustees of the school district in which the school is located a report that includes:

(a) The financial status of the school; and

(b) A description of the school's compliance with each component of the empowerment plan for the school.

2. Each charter school that is sponsored by the State Board which is approved to operate as an empowerment school shall, on a quarterly basis, submit to the Department a report that includes:

(a) The financial status of the school; and

(b) A description of the school's compliance with each component of the empowerment plan for the school.

3. The board of trustees of a school district shall conduct a financial audit of each empowerment school within the school district, other than a charter school that is sponsored by the State Board. Each financial audit must be conducted on an annual basis and more frequently if determined necessary by the board of trustees.

4. The Department shall conduct a financial audit of each charter school that is sponsored by the State Board which operates as an empowerment school on an annual basis and more frequently if determined necessary by the Department.

Sec. 7. ~~If an empowerment school is located in a school district that offers school choice as part of its program of empowerment schools, the empowerment school shall:~~

~~1. Enroll first the pupils who are zoned to attend that empowerment school.~~

~~2. After the enrollment of pupils pursuant to subsection 1, if the empowerment school has space available, enroll pupils who are not otherwise zoned to attend the school on the basis of a lottery system.]~~
(Deleted by amendment.)

Sec. 8. 1. ~~[Each]~~ Except as otherwise provided pursuant to a waiver granted in accordance with section 6.3 or 6.5 of this act, each empowerment school, each person employed by an empowerment school and each pupil enrolled in an empowerment school shall comply with the applicable requirements of state law, including, without limitation, the standards of content and performance prescribed pursuant to NRS 389.520 and the examinations that are administered pursuant to NRS 389.015 and 389.550.

2. Each empowerment school may accept gifts, grants and donations from any source for the support of its empowerment plan. A person who gives a gift, grant or donation may designate all or part of the gift, grant or donation specifically to carry out the incentive pay structure of the school, if applicable.

Sec. 9. ~~[1. The Department shall:~~

~~(a) Develop a uniform method for the evaluation of the programs of empowerment schools established by school districts and the progress of empowerment schools in a manner that provides a statistical analysis of longitudinal data; and~~

~~(b) On an annual basis, conduct an evaluation using measurable outcomes and indicators to assess the achievement of pupils enrolled in empowerment schools.~~

~~2. The Department may conduct such other evaluations, surveys or studies deemed necessary to evaluate the programs of empowerment schools and the progress of empowerment schools.~~

~~3. On or before December 1 of each year, the Department shall prepare a written report of the evaluations conducted pursuant to subsection 1 and~~

~~any evaluation, survey or study conducted pursuant to subsection 2. The report must be submitted to the Governor and:~~

~~(a) In each even numbered year, the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.~~

~~(b) In each odd numbered year, the Legislative Committee on Education.]~~
(Deleted by amendment.)

Sec. 10. The State Board may adopt regulations to carry out the provisions of sections 2 to 10, inclusive, of this act.

Sec. 11. ~~[1.—There is hereby appropriated from the State General Fund to the Department of Education the sum of \$850,000 for the purpose of carrying out the provisions of sections 12 and 15 of this act.~~

~~2.—Except as otherwise provided in subsection 3, any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, 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 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.~~

~~3.—Any remaining balance of the appropriation made by subsection 1 which is not committed for expenditure by an empowerment school but which has been apportioned to the empowerment school by the school district pursuant to section 15 of this act does not revert to the State General Fund or otherwise revert to the school district if the school continues to operate as an empowerment school.]~~ *(Deleted by amendment.)*

Sec. 12. ~~[1.—The Department of Education shall use the money appropriated by section 11 of this act to assist each school district that wishes to establish a program of empowerment schools pursuant to section 3 of this act in the development of the program, including, without limitation, the provision of appropriate training for the design team created for the school district pursuant to section 3 of this act.~~

~~2.—The Department of Education shall provide grants of money to school districts, upon application by a school district on a form prescribed by the Department. The Department shall distribute to each school district whose application is approved a grant of not more than \$50,000. The school district shall use the money to:~~

~~(a) Assist the design team created for the school district in conducting research and with developing a program of empowerment for recommendation to the board of trustees of the school district, including, without limitation, surveying programs of empowerment or similar models of site-based decision making in other states and countries during Fiscal Year 2007-2008; and~~

~~(b) Provide appropriate training to the principals of public schools within the school district who are interested in submitting an empowerment plan pursuant to section 6 of this act for operation during the 2008-2009 school year as an empowerment school.~~

~~3.—On or before May 1, 2008, the Department of Education shall submit a written report to the Legislative Committee on Education which includes the name of each school district that received a grant of money pursuant to this section and a description of how that money was used.~~

~~4.—If the board of trustees of a school district received a grant of money pursuant to this section and the board of trustees did not establish a program of empowerment schools, the board of trustees shall, on or before January 1, 2008, submit to the Department of Education and to the Legislative Committee on Education the reasons of the board of trustees for not establishing a program of empowerment schools.] (Deleted by amendment.)~~

~~Sec. 13. [1.—There is hereby appropriated from the State General Fund to the Clark County School District for the Fiscal Year 2007-2008 the sum of \$1,695,100 for the support of not more than four public schools that operated as empowerment schools in the Clark County School District during the 2006-2007 school year. The money must be used to assist with the operation of those empowerment schools during the 2007-2008 school year.~~

~~2.—Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2008, 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 19, 2008, 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 19, 2008.~~

~~3.—An empowerment school that is apportioned money pursuant to this section may be selected by the Interim Finance Committee for a grant of money pursuant to section 15 of this act to assist with the operation of the empowerment school during the 2008-2009 school year.] (Deleted by amendment.)~~

~~Sec. 14. [1.—There is hereby appropriated from the State General Fund to the Department of Education for the Fiscal Year 2008-2009 the sum of \$42,255,661 for the support of public schools that will operate as empowerment schools during the 2008-2009 school year pursuant to sections 2 to 10, inclusive, of this act. The money must be allocated in accordance with section 15 of this act.~~

~~2.—Except as otherwise provided in subsection 3, any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, 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 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.~~

~~3.—Any remaining balance of the appropriation made by subsection 1 which is not committed for expenditure by the empowerment school but which has been apportioned to the empowerment school by the school district does not revert to the State General Fund or otherwise revert to the school district if the school continues to operate as an empowerment school.]~~
(Deleted by amendment.)

Sec. 15. ~~[1.—The board of trustees of a school district may submit an application for a grant of money from the appropriation made by:~~

~~(a) Section 14 of this act; and~~

~~(b) Section 11 of this act if any money is remaining at the end of Fiscal Year 2007-2008 from that appropriation.~~

~~2.—An application must be on a form prescribed by the Department of Education and include, without limitation:~~

~~(a) The number of empowerment schools within the school district with an empowerment plan that is approved pursuant to section 6 of this act that are ready for operation under the plan in the 2008-2009 school year;~~

~~(b) A description of the empowerment plan for each school;~~

~~(c) The manner by which the grant of money will be distributed among the empowerment schools within the school district; and~~

~~(d) A prioritized list of the empowerment schools within the school district for which the school district is requesting a grant of money.~~

~~3.—Upon receipt of an application submitted pursuant to subsection 2, the Department of Education shall review the applications submitted by each school district jointly with the Budget Division of the Department of Administration and the Legislative Bureau of Educational Accountability and Program Evaluation. The Department of Education shall transmit the applications to the State Board of Examiners with the recommendation for the amount of the grant for each school district whose application is approved. Each recommendation must be based upon the prioritized list submitted by each school district pursuant to subsection 2.~~

~~4.—The State Board of Examiners, or the Clerk of the Board if authorized by the Board to act on its behalf, shall consider each application and, if it finds that an allocation should be made, recommend, on or before April 1, 2008, the amount of each allocation to the Interim Finance Committee.~~

~~5.—The Interim Finance Committee shall review each recommendation submitted by the State Board of Examiners and award an allocation for each school district based on the recommendations of the State Board of Examiners.~~

~~6. The Interim Finance Committee shall:~~

~~(a) Award grants of money to school districts with approved applications for empowerment schools to operate during the 2008-2009 school year;~~

~~(b) Select at least one empowerment school from each school district that submits an application which is approved; and~~

~~(c) Ensure that the empowerment schools selected reflect the economic and geographic diversity of this State, the academic needs of pupils, any special academic interests of pupils and any other special concerns of pupils, including, without limitation, schools that have a large population of Native Americans.~~

~~7. The Interim Finance Committee shall:~~

~~(a) Provide a grant of \$50,000 per empowerment school or \$550 per pupil at that empowerment school, whichever is more, to each school district whose application is approved; and~~

~~(b) After the amounts are determined pursuant to paragraph (a), apportion the remaining amount of the appropriations made by sections 11 and 14 of this act, if any, to each school district whose application is approved pro rata based upon the number of pupils enrolled in each empowerment school in each school district.~~

~~8. Each school district that receives a grant of money pursuant to this section:~~

~~(a) Shall apportion the money to each empowerment school within the school district based upon the prioritized list to assist the school with its operation under an empowerment plan in the 2008-2009 school year.~~

~~(b) May retain not more than 1.5 percent of the grant for the costs of the school district for maintaining its program of empowerment schools.]~~

(Deleted by amendment.)

~~Sec. 16. 1. There is hereby appropriated from the State General Fund to the Department of Education for the position of a coordinator for the programs of empowerment schools:~~

~~For the Fiscal Year 2007-2008.....\$84,791~~

~~For the Fiscal Year 2008-2009.....\$114,448~~

~~2. The Department of Education shall use the money appropriated by subsection 1 to pay for the salary, travel expenses, administrative and equipment expenses of the coordinator appointed pursuant to subsection 3.~~

~~3. The Superintendent of Public Instruction shall hire a coordinator to assist the Department of Education with carrying out the provisions of this act.~~

~~4. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years 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 19, 2008, and September 18, 2009, respectively, 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 19, 2008, and September 18, 2009, respectively.] (Deleted by amendment.)~~

~~Sec. 17. [1.— Each board of trustees of a school district that wishes to receive a grant of money pursuant to section 15 of this act shall create a design team for the school district pursuant to section 3 of this act on or before August 1, 2007.~~

~~2.— A design team for a school district created pursuant to section 3 of this act shall:~~

~~(a) Research and investigate programs of empowerment and similar models of site based decision making to assist the design team in the development and implementation of a program of empowerment for the school district; and~~

~~(b) On or before November 1, 2007, recommend to the board of trustees of the school district a program of empowerment for the public schools within the school district.~~

~~3.— On or before December 1, 2007, the board of trustees of each school district that wishes to receive a grant of money pursuant to section 15 of this act shall adopt a program of empowerment schools pursuant to section 4 of this act and provide notice to the principals of each public school within the school district that they may apply to the school district by submitting an empowerment plan pursuant to section 6 of this act.~~

~~4.— On or before January 1, 2008, the board of trustees of each school district that wishes to receive a grant of money pursuant to section 15 of this act shall begin accepting empowerment plans from principals of public schools within the school district that wish to operate as an empowerment school.~~

~~5.— On or before February 1, 2008, the board of trustees of each school district that wishes to receive a grant of money pursuant to section 15 of this act shall select the schools that will operate as empowerment schools during the 2008-2009 school year.] (Deleted by amendment.)~~

~~Sec. 18. [1.— On or before August 1, 2008, the Department of Education shall submit a written report to the Governor and to the Legislative Committee on Education. The report must include, without limitation:~~

~~(a) The name of each school district that received a grant of money pursuant to section 12 of this act, the amount of money apportioned to each school district and the manner in which the money was used; and~~

~~(b) The name of each empowerment school that was apportioned money from the appropriation made by section 13 of this act and the manner in which the money was used by each empowerment school.~~

~~2.— On or before January 1, 2009, the Department of Education shall submit a written report to the Governor and to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature. The report must include, without limitation:~~

~~(a) For each school district that received a grant of money pursuant to section 15 of this act:~~

- ~~(1) The name of the school district;~~
- ~~(2) The amount of the grant to the school district;~~
- ~~(3) The name of each empowerment school that was apportioned money from the grant and the amount of the apportionment; and~~
- ~~(4) The manner in which the money was used by the empowerment school;~~

~~(b) To the extent that information is available, an evaluation of the programs of empowerment schools established by school districts, including, without limitation, the effect of the programs on the achievement of the pupils enrolled in empowerment schools and the status of the progress of empowerment schools; and~~

~~(c) Any recommendations for legislation relating to a program of empowerment schools.~~

~~For the purposes of section 9 of this act, the Department shall be deemed to comply with the report required pursuant to that section for 2007 and 2008 with the submission of the report required by this subsection.] (Deleted by amendment.)~~

Sec. 18.5. For the purpose of complying with the provisions of paragraph (b) of subsection 2 of section 3 of this act, the Clark County School District may, in calculating the number of schools that must be approved to operate as empowerment schools, include the four public schools that operated as empowerment schools during the 2006-2007 school year if those schools continue to operate as empowerment schools for the 2007-2008 school year and the 2008-2009 school year.

Sec. 19. This act becomes effective on July 1, 2007 ~~[]~~, and expires by limitation on June 30, 2011.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 265.

Bill read second time.

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

Amendment No. 128.

"SUMMARY—Revises provisions relating to dentistry and dental hygiene. (BDR 54-1184)"

"AN ACT relating to dentistry; ~~increasing the maximum salary a member of the Board of Dental Examiners of Nevada is entitled to receive for each day he is engaged in the business of the Board;~~ authorizing the Executive Director and the members of the Board to issue subpoenas; revising the requirements for the issuance of a permanent license for an applicant who

holds a temporary license; eliminating the requirement that the Board meet at least annually to examine applicants for licenses; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill removes the requirement that the Board of Dental Examiners of Nevada meet at least once each year to examine applicants for licenses. ~~[Section 2 of this bill increases the maximum salary a member of the Board of Dental Examiners of Nevada is entitled to receive for each day he is engaged in the business of the Board.] and removes the requirement that examinations be conducted by members of the Board or its appointees.~~ Section 3 of this bill requires a person who applies for a license without examination to file an application at least 45 days before the Board is scheduled to take action on the application. Section 4 of this bill specifies that an applicant for a license to practice dentistry must pass a clinical examination approved by the Board and the American Board of Dental Examiners. Sections ~~[4 and]~~ 5 and 6 of this bill eliminate the requirement that a person who holds a temporary license and wishes to apply for a permanent license must not have been involved in any disciplinary action during the period he held the temporary license. Section ~~[6]~~ 7 of this bill authorizes the Executive Director and any member of the Board to issue subpoenas. Section ~~[7]~~ 8 of this bill prohibits a dentist from practicing dentistry in a manner or place that is not permitted by the provisions of chapter 631 of NRS. Section ~~[7]~~ 8 also provides that a first or second offense is a gross misdemeanor and a third or subsequent offense is a category D felony.

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

Section 1. NRS 631.170 is hereby amended to read as follows:

631.170 1. The Board shall meet ~~[at least once annually]~~ *whenever necessary* to examine applicants. The dates of the examinations must be fixed by the Board. The Board may conduct examinations outside ~~[of]~~ this State, and for this purpose may use the facilities of dental colleges. ~~[but all examinations must be conducted by members of the Board or examiners appointed by the Board.]~~

2. The Board may also meet at such other times and places and for such other purposes as it may deem proper.

3. A quorum consists of five members who are dentists and two members who are dental hygienists.

Sec. 2. ~~[NRS 631.180 is hereby amended to read as follows:~~

~~631.180 1. Each member of the Board is entitled to receive:~~

~~(a) A salary of not more than \$80 \$150 per day as fixed by the Board, while engaged in the business of the Board; and~~

~~(b) A per diem allowance and travel expenses at a rate fixed by the Board, while engaged in the business of the Board. The rate must not exceed the rate provided for state officers and employees generally.~~

~~2. While engaged in the business of the Board, each employee of the Board is entitled to receive a per diem allowance and travel expenses at a rate fixed by the Board. The rate must not exceed the rate provided for state officers and employees generally.~~

~~3. The Board shall deposit in banks, credit unions or savings and loan associations in this State all fees which it receives.~~

~~4. All expenses of the Board must be paid from the fees received by the Board, and no part thereof may be paid from the State General Fund.]~~
(Deleted by amendment.)

Sec. 3. NRS 631.220 is hereby amended to read as follows:

631.220 1. Every applicant for a license to practice dental hygiene or dentistry, or any of its special branches, ~~[shall:]~~ must:

(a) File an application with the Board *at least* 45 days before ~~[the]~~ :

(1) *The date on which the examination [is to] will be given [-] ; or*

(2) *If an examination is not required for the issuance of a license, the date on which the Board is scheduled to take action on the application.*

(b) Accompany the application with a recent photograph of himself together with the required ~~[examination]~~ fee and such other documentation as the Board may require by regulation.

(c) Submit with the application a complete set of 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.

2. An application must include all information required to complete the application.

Sec. 4. NRS 631.240 is hereby amended to read as follows:

631.240 1. Any person desiring to obtain a license to practice dentistry in this State, after having complied with the regulations of the Board to determine eligibility:

(a) Must present to the Board a certificate granted by the Joint Commission on National Dental Examinations which contains a notation that the applicant has passed the National Board Dental Examination with an average score of at least 75; and

(b) Except as otherwise provided in this chapter, must:

(1) Successfully ~~[complete]~~ *pass* a clinical examination ~~[given]~~ *approved* by the Board ~~[which examines the applicant's practical knowledge of dentistry and which includes demonstrations of the applicant's skill in dentistry.]~~ *and the American Board of Dental Examiners; or*

(2) Present to the Board a certificate granted by the Western Regional Examining Board which contains a notation that the applicant has passed, within the 5 years immediately preceding the date of the application, a clinical examination administered by the Western Regional Examining Board.

2. The Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

3. All persons who have satisfied the requirements for licensure as a dentist must be registered as licensed dentists on the board register, as provided in this chapter, and are entitled to receive a certificate of registration, signed by all members of the Board.

~~[Sec. 4.]~~ Sec. 5. NRS 631.272 is hereby amended to read as follows:

631.272 1. Except as otherwise provided in this section, the Board shall, without a clinical examination required by NRS 631.240, issue a temporary license to practice dentistry to a person who:

(a) Has a license to practice dentistry issued pursuant to the laws of another state or territory of the United States, or the District of Columbia;

(b) Has practiced dentistry pursuant to the laws of another state or territory of the United States, or the District of Columbia, for a minimum of 5 years;

(c) Has not had his license to practice dentistry revoked or suspended in this State, another state or territory of the United States, or the District of Columbia;

(d) Has not been refused a license to practice dentistry in this State, another state or territory of the United States, or the District of Columbia;

(e) Is not involved in or does not have pending a disciplinary action concerning his license to practice dentistry in this State, another state or territory of the United States, or the District of Columbia;

(f) Pays the application, examination and renewal fees in the same manner as a person licensed pursuant to NRS 631.240;

(g) Submits all information required to complete an application for a license; and

(h) Satisfies the requirements of NRS 631.230.

2. A person to whom a temporary license is issued pursuant to subsection 1 may:

(a) Practice dentistry for the duration of the temporary license; and

(b) Apply for a permanent license to practice dentistry without a clinical examination required by NRS 631.240 if ~~[-]~~

~~(1) The person has held a temporary license to practice dentistry pursuant to subsection 1 for a minimum of 2 years. [-] and~~

~~(2) The person has not been involved in any disciplinary action during the time he has held a temporary license pursuant to subsection 1.]~~

3. The Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

4. The Board shall not, on or after July 1, 2006, issue any additional temporary licenses to practice dentistry pursuant to this section.

5. Any person who, on July 1, 2006, holds a temporary license to practice dentistry issued pursuant to this section may, subject to the regulatory and disciplinary authority of the Board, practice dentistry under the temporary license until December 31, 2008, or until the person is qualified to apply for and is issued or denied a permanent license to practice dentistry in accordance with this section, whichever period is shorter.

6. The Board may revoke a temporary license at any time upon submission of substantial evidence to the Board that the holder of the license violated any provision of this chapter or the regulations of the Board.

~~[Sec. 5.]~~ Sec. 6. NRS 631.273 is hereby amended to read as follows:

631.273 1. Except as otherwise provided in this section, the Board shall, without a clinical examination required by NRS 631.300, issue a temporary license to practice dental hygiene to a person who:

(a) Has a license to practice dental hygiene issued pursuant to the laws of another state or territory of the United States, or the District of Columbia;

(b) Satisfies the requirements of NRS 631.290;

(c) Has practiced dental hygiene pursuant to the laws of another state or territory of the United States, or the District of Columbia, for at least 5 years immediately preceding the date that he applies for a temporary license;

(d) Has not had his license to practice dental hygiene revoked or suspended in this State, another state or territory of the United States, or the District of Columbia;

(e) Has not been denied a license to practice dental hygiene in this State, another state or territory of the United States, or the District of Columbia;

(f) Is not involved in or does not have pending a disciplinary action concerning his license to practice dental hygiene in this State, another state or territory of the United States, or the District of Columbia;

(g) Pays the application, examination and renewal fees in the same manner as a person licensed pursuant to NRS 631.300; and

(h) Submits all information required to complete an application for a license.

2. A person to whom a temporary license is issued pursuant to this section may:

(a) Practice dental hygiene for the duration of the temporary license; and

(b) Apply for a permanent license to practice dental hygiene without a clinical examination required by NRS 631.300 if ~~[-~~

~~(1) The] the person has held a temporary license to practice dental hygiene issued pursuant to this section for at least 2 years . [-and~~

~~(2) The person has not been involved in any disciplinary action during the time he has held a temporary license issued pursuant to this section.]~~

3. The Board shall examine each applicant in writing concerning the contents and interpretation of this chapter and the regulations of the Board.

4. The Board shall not, on or after July 1, 2006, issue any additional temporary licenses to practice dental hygiene pursuant to this section.

5. Any person who, on July 1, 2006, holds a temporary license to practice dental hygiene issued pursuant to this section may, subject to the regulatory and disciplinary authority of the Board, practice dental hygiene under the temporary license until December 31, 2008, or until the person is qualified to apply for and is issued or denied a permanent license to practice dental hygiene in accordance with this section, whichever period is shorter.

6. The Board may revoke a temporary license at any time upon submission of substantial evidence to the Board that the holder of the license violated any provision of this chapter or the regulations of the Board.

~~[Sec. 6.]~~ Sec. 7. NRS 631.360 is hereby amended to read as follows:

631.360 1. The Board may, upon its own motion, and shall, upon the verified complaint in writing of any person setting forth facts which, if proven, would constitute grounds for refusal, suspension or revocation of a license or certificate under this chapter, investigate the actions of any person holding a certificate.

2. The Board shall, before refusing to issue, or before suspending or revoking any certificate, at least 10 days before the date set for the hearing, notify in writing the applicant or the holder of the certificate of any charges made. The notice may be served by delivery of it personally to the accused person or by mailing it by registered or certified mail to the place of business last specified by the accused person, as registered with the Board.

3. At the time and place fixed in the notice, the Board shall proceed to hear the charges. If the Board receives a report pursuant to subsection 5 of NRS 228.420, a hearing must be held within 30 days after receiving the report.

4. The Board, *any member thereof or the Executive Director* may compel the attendance of witnesses or the production of documents or objects by subpoena. Any person who is subpoenaed ~~[by the Board]~~ *pursuant to this subsection* may request the Board to modify the terms of the subpoena or grant additional time for compliance.

5. The Board may obtain a search warrant from a magistrate upon a showing that the warrant is needed for an investigation or hearing being conducted by the Board and that reasonable cause exists to issue the warrant.

6. If the Board is not sitting at the time and place fixed in the notice, or at the time and place to which the hearing has been continued, the Board shall continue the hearing for a period not to exceed 30 days.

~~[Sec. 7.]~~ Sec. 8. NRS 631.400 is hereby amended to read as follows:

631.400 1. A person who engages in the illegal practice of dentistry in this State ~~[or]~~ *is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

2. *A person* who practices or offers to practice dental hygiene in this State without a license, or who, having a license, practices dental hygiene in a manner or place not permitted by the provisions of this chapter:

(a) If it is his first or second offense, is guilty of a gross misdemeanor.

(b) If it is his third or subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

~~[2.]~~ 3. ~~[4.]~~ *Unless a greater penalty is provided by specific statute, a person who is licensed to practice dentistry who practices dentistry in a manner or place not permitted by the provisions of this chapter:*

(a) *If it is his first or second offense, is guilty of a gross misdemeanor.*

(b) *If it is his third or subsequent offense, is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

4. The Board may assign ~~[such]~~ a person *described in subsection 1, 2 or 3* specific duties as a condition of renewing his license.

~~[3.—Whenever]~~

5. *If a person has engaged or is about to engage in any acts or practices which constitute or will constitute an offense against this chapter, the district court of any county, on application of the Board, may issue an injunction or other appropriate order restraining the conduct. Proceedings under this subsection are governed by Rule 65 of the Nevada Rules of Civil Procedure, except that no bond or undertaking is required in any action commenced by the Board.*

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 269.

Bill read second time.

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

Amendment No. 249.

"SUMMARY—~~[Requires that land use decisions take into account military installations and requires notice of certain land use hearings to be given to the commander of a military installation.]~~ *Makes various changes to provisions governing land use planning regarding military installations.* (BDR 22-111)"

"AN ACT relating to land use planning; ~~[and zoning]~~ requiring that certain land use decisions ~~[plans and regulations]~~ take into account military installations; requiring that notice of certain land use hearings be given to the commander of a military installation ~~[+] in certain circumstances; authorizing the military to appeal certain land use decisions;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, comprehensive regional policy plans, comprehensive regional plans, master plans and zoning regulations are required to include goals and policies related to certain topics. (NRS 278.02528, 278.0274, 278.160, 278.250) Sections 3, 4, 6 and 8 of this bill require that such plans and regulations ~~[include consideration of the location and purpose of]~~ address the coordination and compatibility of land uses with existing military installations ~~[to ensure that land use and development are carried out safely and in a manner which does not impede the mission of the Armed Forces of the United States.],~~ taking into account the location, purpose and stated mission of the military installations.

Under existing law, a hearing must be held before an application for certain conditional use permits may be granted, before a master plan may be adopted or substantially amended, before zoning regulations or boundaries may be established or amended, and before variances, special use permits, conditional use permits or other special exceptions may be granted. Owners of property within a certain number of feet of the property in question are required to be given notice of such hearings. (NRS 278.147, 278.210, 278.260, 278.315) Sections 5, 7, 9 and 10 of this bill require that notice of such hearings be given to the commander of a military installation if the military installation is within 3,000 feet of the property in question.

Under existing law, the governing body of each city and county is required to adopt an ordinance providing that an aggrieved person may appeal the decision of a planning commission, board of adjustment, hearing examiner or similar body. (NRS 278.3195) Under existing law, the definition of "person" does not include governmental entities. (NRS 0.039) Section 11 of this bill provides that the term "person" includes the Armed Forces of the United States or an official component or representative thereof for the limited purpose of ~~the proceedings of appeal set forth in NRS 278.3195.~~ appealing the decision of a planning commission, board of adjustment, hearing examiner or similar body.

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:

"Military installation" means a base or facility at which or from which the Air Force, Army, Coast Guard, Marine Corps, Navy, Air Force Reserve, Army Reserve, Coast Guard Reserve, Marine Corps Reserve, Navy Reserve or National Guard conducts exercises, maneuvers, operations, patrols ~~for recruitment, training or other essential functions.~~ or training.

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, *and section 1 of this act* have the meanings ascribed to them in those sections.

Sec. 3. NRS 278.02528 is hereby amended to read as follows:

278.02528 1. The regional planning coalition shall develop a comprehensive regional policy plan for the balanced economic, social, physical, environmental and fiscal development and orderly management of the growth of the region for a period of at least 20 years. The comprehensive regional policy plan must contain recommendations of policy to carry out each part of the plan.

2. In developing the plan, the coalition:

(a) May consult with other entities that are interested or involved in regional planning within the county.

(b) Shall ensure that the comprehensive regional policy plan includes goals, policies, maps and other documents relating to:

(1) Conservation, including, without limitation, policies relating to the use and protection of natural resources.

(2) Population, including, without limitation, standardized projections for population growth in the region.

(3) Land use and development, including, without limitation, a map of land use plans that have been adopted by local governmental entities within the region, and that the plan addresses, if applicable, ~~[- mixed use -]~~ :

(I) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts ~~[-]~~; and

(II) The coordination and compatibility of land uses with each military installation in the region, taking into account the location, purpose and stated mission of the military installation.

(4) Transportation.

(5) The efficient provision of public facilities and services, including, without limitation, roads, water and sewer service, police and fire protection, mass transit, libraries and parks.

(6) Air quality.

(7) Strategies to promote and encourage:

(I) The interspersing of new housing and businesses in established neighborhoods; and

(II) Development in areas in which public services are available.

~~f (8) The coordination of land use and development in consideration of the location and purpose of existing military installations to ensure that such land use and development is carried out safely and in a manner which does not impede the mission of the Armed Forces of the United States.~~

3. The regional planning coalition shall not adopt or amend the comprehensive regional policy plan unless the adoption or amendment is by resolution of the regional planning coalition:

(a) Carried by the affirmative votes of not less than two-thirds of its total membership; and

(b) Ratified by the board of county commissioners of the county and the city council of each city that jointly established the regional planning coalition pursuant to NRS 278.02514.

Sec. 4. NRS 278.0274 is hereby amended to read as follows:

278.0274 The comprehensive regional plan must include goals, policies, maps and other documents relating to:

1. Population, including a projection of population growth in the region and the resources that will be necessary to support that population.

2. Conservation, including policies relating to the use and protection of air, land, water and other natural resources, ambient air quality, natural recharge areas, floodplains and wetlands, and a map showing the areas that are best suited for development based on those policies.

3. The limitation of the premature expansion of development into undeveloped areas, preservation of neighborhoods and revitalization of urban areas, including, without limitation, policies that relate to the interspersing of new housing and businesses in established neighborhoods and set forth principles by which growth will be directed to older urban areas.

4. Land use and transportation, including the classification of future land uses by density or intensity of development based upon the projected necessity and availability of public facilities, including, without limitation, schools, and services and natural resources, and the compatibility of development in one area with that of other areas in the region. This portion of the plan must:

(a) Address, if applicable, ~~mixed use~~ :

(1) *Mixed-use* development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(2) The coordination and compatibility of land uses with each military installation in the region, taking into account the location, purpose and stated mission of the military installation;

(b) Allow for a variety of uses;

(c) Describe the transportation facilities that will be necessary to satisfy the requirements created by those future uses; and

(d) Be based upon the policies and map relating to conservation that are developed pursuant to subsection 2, surveys, studies and data relating to the area, the amount of land required to accommodate planned growth, the population of the area projected pursuant to subsection 1, and the characteristics of undeveloped land in the area.

5. Public facilities and services, including provisions relating to sanitary sewer facilities, solid waste, flood control, potable water and groundwater aquifer recharge which are correlated with principles and guidelines for future land uses, and which specify ways to satisfy the requirements created by those future uses. This portion of the plan must:

(a) Describe the problems and needs of the area relating to public facilities and services and the general facilities that will be required for their solution and satisfaction;

(b) Identify the providers of public services within the region and the area within which each must serve, including service territories set by the Public Utilities Commission of Nevada for public utilities;

(c) Establish the time within which those public facilities and services necessary to support the development relating to land use and transportation must be made available to satisfy the requirements created by that development; and

(d) Contain a summary prepared by the regional planning commission regarding the plans for capital improvements that:

(1) Are required to be prepared by each local government in the region pursuant to NRS 278.0226; and

(2) May be prepared by the water planning commission of the county, the regional transportation commission and the county school district.

6. Annexation, including the identification of spheres of influence for each unit of local government, improvement district or other service district and specifying standards and policies for changing the boundaries of a sphere of influence and procedures for the review of development within each sphere of influence. As used in this subsection, "sphere of influence" means an area into which a political subdivision may expand in the foreseeable future.

7. Intergovernmental coordination, including the establishment of guidelines for determining whether local master plans and facilities plans conform with the comprehensive regional plan.

8. Any utility project required to be reported pursuant to NRS 278.145.

~~9. The coordination of land use and development in consideration of the location and purpose of existing military installations to ensure that such land use and development is carried out safely and in a manner which does not impede the mission of the Armed Forces of the United States.~~

Sec. 5. NRS 278.147 is hereby amended to read as follows:

278.147 1. No person may commence operation in this State of a facility where an explosive, a highly hazardous substance designated pursuant to NRS 459.3816 if present in a quantity equal to or greater than the amount designated pursuant to NRS 459.3816, or a hazardous substance listed in the regulations adopted pursuant to NRS 459.3833 will be used, manufactured, processed, transferred or stored without first obtaining a conditional use permit therefor from the governing body of the city or county in which the facility is to be located. Each governing body shall establish by local ordinance, in accordance with the provisions of this section, the procedures for obtaining such a permit.

2. An application for a conditional use permit must be filed with the planning commission of the city, county or region in which the facility is to be located. The planning commission shall, within 90 days after the filing of an application, hold a public hearing to consider the application. The planning commission shall, at least 30 days before the date of the hearing, cause notice of the time, date, place and purpose of the hearing to be:

(a) Sent by mail or, if requested by a party to whom notice must be provided pursuant to this paragraph, by electronic means if receipt of such an electronic notice can be verified, to:

(1) The applicant;

(2) Each owner or tenant of real property located within 1,000 feet of the property in question;

(3) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest the property in question, to the extent this notice does not duplicate the notice given pursuant to subparagraph (2);

(4) If a mobile home park or multiple-unit residence is located within 1,000 feet of the property in question, each tenant of that mobile home park or multiple-unit residence;

(5) *If a military installation is located within 3,000 feet of the property in question, the commander of that military installation;*

(6) Any advisory board that has been established for the affected area by the governing body;

~~[(6)]~~ (7) The Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources;

~~[(7)]~~ (8) The State Fire Marshal; and

~~[(8)]~~ (9) The Administrator of the Division of Industrial Relations of the Department of Business and Industry; and

(b) Published in a newspaper of general circulation within the city or county in which the property in question is located.

3. The notice required by subsection 2 must:

(a) Be written in language that is easy to understand; and

(b) Include a physical description or map of the property in question and a description of all explosives, and all substances described in subsection 1, that will be located at the facility.

4. In considering the application, the planning commission shall:

(a) Consult with:

(1) Local emergency planning committees;

(2) The Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources;

(3) The State Fire Marshal;

(4) The Administrator of the Division of Industrial Relations of the Department of Business and Industry; ~~and~~

(5) *The commander of any other military installation that may be affected by the operation of the facility; and*

(6) The governing body of any other city or county that may be affected by the operation of the facility; and

(b) Consider fully the effect the facility will have on ~~the~~ :

(1) *The health and safety of the residents of the city, county or region.*

(2) *The safety ~~for~~ and security ~~and readiness~~ of ~~each~~ any military installation in the city, county or region.*

5. The planning commission shall, within a reasonable time after the public hearing, submit to the governing body its recommendations for any actions to be taken on the application. If the planning commission recommends that a conditional use permit be granted to the applicant, the planning commission shall include in its recommendations such terms and conditions for the operation of the facility as it deems necessary for the protection of ~~the~~ :

(a) *The health and safety of the residents of the city, county or region.*

(b) *The safety ~~for~~ and security ~~and readiness~~ of ~~each~~ any military installation in the city, county or region.*

6. The governing body shall, within 30 days after the receipt of the recommendations of the planning commission, hold a public hearing to consider the application. The governing body shall:

(a) Cause notice of the hearing to be given in the manner prescribed by subsection 2; and

(b) Grant or deny the conditional use permit within 30 days after the public hearing.

7. Notwithstanding any provision of this section to the contrary, the provisions of this section do not apply to the mining industry.

8. As used in this section, "explosive" means a material subject to regulation as an explosive pursuant to NRS 459.3816.

Sec. 6. 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.

(2) An inventory of affordable housing in the community.

(3) An analysis of 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.

(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.

(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~~ ;

(I) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts ~~;~~ *and*

(II) The coordination and compatibility of land uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.

(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) Military installations plan. Showing the location of military installations and setting forth policies for the coordination of land use and development in consideration of the location and purpose of those installations to ensure that such land use and development is carried out safely and in a manner which does not impede the mission of the Armed Forces of the United States.~~

~~(h)~~ 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.

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

(p) ~~(((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) ~~(((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) ~~(((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, prohibits the preparation and adoption of any such subject as a part of the master plan.

Sec. 7. NRS 278.210 is hereby amended to read as follows:

278.210 1. Before adopting the master plan or any part of it in accordance with NRS 278.170, or any substantial amendment thereof, the commission shall hold at least one public hearing thereon, notice of the time and place of which must be given at least by one publication in a newspaper of general circulation in the city or county, or in the case of a regional planning commission, by one publication in a newspaper in each county within the regional district, at least 10 days before the day of the hearing.

2. Before a public hearing may be held pursuant to subsection 1 in a county whose population is 100,000 or more on an amendment to a master

plan, including, without limitation, a gaming enterprise district, if applicable, the person who requested the proposed amendment must hold a neighborhood meeting to provide an explanation of the proposed amendment. Notice of such a meeting must be given by the person requesting the proposed amendment to:

(a) Each owner, as listed on the county assessor's records, of real property located within a radius of 750 feet of the area to which the proposed amendment pertains;

(b) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest to the area to which the proposed amendment pertains, to the extent this notice does not duplicate the notice given pursuant to paragraph (a); ~~{and}~~

(c) Each tenant of a mobile home park if that park is located within a radius of 750 feet of the area to which the proposed amendment pertains ~~{-}~~ ;
and

(d) *If a military installation is located within 3,000 feet of the area to which the proposed amendment pertains, the commander of the military installation.*

➡ The notice must be sent by mail at least 10 days before the neighborhood meeting and include the date, time, place and purpose of the neighborhood meeting.

3. Except as otherwise provided in NRS 278.225, the adoption of the master plan, or of any amendment, extension or addition thereof, must be by resolution of the commission carried by the affirmative votes of not less than two-thirds of the total membership of the commission. The resolution must refer expressly to the maps, descriptive matter and other matter intended by the commission to constitute the plan or any amendment, addition or extension thereof, and the action taken must be recorded on the map and plan and descriptive matter by the identifying signatures of the secretary and chairman of the commission.

4. Except as otherwise provided in NRS 278.225, no plan or map, hereafter, may have indicated thereon that it is a part of the master plan until it has been adopted as part of the master plan by the commission as herein provided for the adoption thereof, whenever changed conditions or further studies by the commission require such amendments, extension or addition.

5. Except as otherwise provided in this subsection, the commission shall not amend the land use plan of the master plan set forth in paragraph (f) of subsection 1 of NRS 278.160, or any portion of such a land use plan, more than four times in a calendar year. The provisions of this subsection do not apply to:

(a) A change in the land use designated for a particular area if the change does not affect more than 25 percent of the area; or

(b) A minor amendment adopted pursuant to NRS 278.225.

6. An attested copy of any part, amendment, extension or addition to the master plan adopted by the planning commission of any city, county or

region in accordance with NRS 278.170 must be certified to the governing body of the city, county or region. The governing body of the city, county or region may authorize such certification by electronic means.

7. An attested copy of any part, amendment, extension of or addition to the master plan adopted by any regional planning commission must be certified to the county planning commission and to the board of county commissioners of each county within the regional district. The county planning commission and board of county commissioners may authorize such certification by electronic means.

Sec. 8. NRS 278.250 is hereby amended to read as follows:

278.250 1. For the purposes of NRS 278.010 to 278.630, inclusive, the governing body may divide the city, county or region into zoning districts of such number, shape and area as are best suited to carry out the purposes of NRS 278.010 to 278.630, inclusive. Within the zoning district, it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land.

2. The zoning regulations must be adopted in accordance with the master plan for land use and be designed:

- (a) To preserve the quality of air and water resources.
- (b) To promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment.
- (c) To consider existing views and access to solar resources by studying the height of new buildings which will cast shadows on surrounding residential and commercial developments.
- (d) To reduce the consumption of energy by encouraging the use of products and materials which maximize energy efficiency in the construction of buildings.
- (e) To provide for recreational needs.
- (f) To protect life and property in areas subject to floods, landslides and other natural disasters.
- (g) To conform to the adopted population plan, if required by NRS 278.170.
- (h) To develop a timely, orderly and efficient arrangement of transportation and public facilities and services, including public access and sidewalks for pedestrians, and facilities and services for bicycles.
- (i) To ensure that the development on land is commensurate with the character and the physical limitations of the land.
- (j) To take into account the immediate and long-range financial impact of the application of particular land to particular kinds of development, and the relative suitability of the land for development.
- (k) To promote health and the general welfare.
- (l) To ensure the development of an adequate supply of housing for the community, including the development of affordable housing.
- (m) To ensure the protection of existing neighborhoods and communities, including the protection of rural preservation neighborhoods.

(n) To promote systems which use solar or wind energy.

~~(o) To ~~promote~~ foster the coordination and compatibility of land use and development in consideration of the location and purpose of existing military installations to ensure that such land use and development is carried out safely and in a manner which does not impede the mission of the Armed Forces of the United States.~~ uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.

3. The zoning regulations must be adopted with reasonable consideration, among other things, to the character of the area and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city, county or region.

4. In exercising the powers granted in this section, the governing body may use any controls relating to land use or principles of zoning that the governing body determines to be appropriate, including, without limitation, density bonuses, inclusionary zoning and minimum density zoning.

5. As used in this section:

(a) "Density bonus" means an incentive granted by a governing body to a developer of real property that authorizes the developer to build at a greater density than would otherwise be allowed under the master plan, in exchange for an agreement by the developer to perform certain functions that the governing body determines to be socially desirable, including, without limitation, developing an area to include a certain proportion of affordable housing.

(b) "Inclusionary zoning" means a type of zoning pursuant to which a governing body requires or provides incentives to a developer who builds residential dwellings to build a certain percentage of those dwellings as affordable housing.

(c) "Minimum density zoning" means a type of zoning pursuant to which development must be carried out at or above a certain density to maintain conformance with the master plan.

Sec. 9. NRS 278.260 is hereby amended to read as follows:

278.260 1. The governing body shall provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts are determined, established, enforced and amended.

2. A zoning regulation, restriction or boundary, or an amendment thereto, must not become effective until after transmittal of a copy of the relevant application to the town board, citizens' advisory council or town advisory board pursuant to subsection 5, if applicable, and after a public hearing at which parties in interest and other persons have an opportunity to be heard. The governing body shall cause notice of the time and place of the hearing to be:

(a) Published in an official newspaper, or a newspaper of general circulation, in the city, county or region; ~~and~~

(b) Mailed to each tenant of a mobile home park if that park is located within 300 feet of the property in question ~~to~~; and

(c) *If a military installation is located within 3,000 feet of the property in question, mailed to the commander of that military installation,*

➡ at least 10 days before the hearing.

3. If a proposed amendment involves a change in the boundary of a zoning district in a county whose population is less than 100,000, the governing body shall, to the extent this notice does not duplicate the notice required by subsection 2, cause a notice of the hearing to be sent at least 10 days before the hearing to:

(a) The applicant;

(b) Each owner, as listed on the county assessor's records, of real property located within 300 feet of the portion of the boundary being changed;

(c) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest to the portion of the boundary being changed, to the extent this notice does not duplicate the notice given pursuant to paragraph (b); and

(d) Any advisory board which has been established for the affected area by the governing body.

➡ The notice must be sent by mail or, if requested by a party to whom notice must be provided pursuant to paragraphs (a) to (d), inclusive, by electronic means if receipt of such an electronic notice can be verified, and must be written in language which is easy to understand. The notice must set forth the time, place and purpose of the hearing and a physical description of or a map detailing the proposed change, must indicate the existing zoning designation and the proposed zoning designation of the property in question, and must contain a brief summary of the intent of the proposed change. If the proposed amendment involves a change in the boundary of the zoning district that would reduce the density or intensity with which a parcel of land may be used, the notice must include a section that an owner of property may complete and return to the governing body to indicate his approval of or opposition to the proposed amendment.

4. If a proposed amendment involves a change in the boundary of a zoning district in a county whose population is 100,000 or more, the governing body shall, to the extent this notice does not duplicate the notice required by subsection 2, cause a notice of the hearing to be sent at least 10 days before the hearing to:

(a) The applicant;

(b) Each owner, as listed on the county assessor's records, of real property located within 750 feet of the portion of the boundary being changed;

(c) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest to the portion of the boundary being changed, to the extent this notice does not duplicate the notice given pursuant to paragraph (b);

(d) Each tenant of a mobile home park if that park is located within 750 feet of the property in question; and

(e) Any advisory board which has been established for the affected area by the governing body.

➡ The notice must be sent by mail or, if requested by a party to whom notice must be provided pursuant to paragraphs (a) to (e), inclusive, by electronic means if receipt of such an electronic notice can be verified, and must be written in language which is easy to understand. The notice must set forth the time, place and purpose of the hearing and a physical description of or a map detailing the proposed change, must indicate the existing zoning designation and the proposed zoning designation of the property in question, and must contain a brief summary of the intent of the proposed change. If the proposed amendment involves a change in the boundary of the zoning district that would reduce the density or intensity with which a parcel of land may be used, the notice must include a section that an owner of property may complete and return to the governing body to indicate his approval of or opposition to the proposed amendment.

5. If an application is filed with the governing body and the application involves a change in the boundary of a zoning district within an unincorporated town that is located more than 10 miles from an incorporated city, the governing body shall, at least 10 days before the hearing on the application is held pursuant to subsection 2, transmit a copy of any information pertinent to the application to the town board, citizens' advisory council or town advisory board, whichever is applicable, of the unincorporated town. The town board, citizens' advisory council or town advisory board may make recommendations regarding the application and submit its recommendations before the hearing on the application is held pursuant to subsection 2. The governing body or other authorized person or entity conducting the hearing shall consider any recommendations submitted by the town board, citizens' advisory council or town advisory board regarding the application and, within 10 days after making its decision on the application, shall transmit a copy of its decision to the town board, citizens' advisory council or town advisory board.

6. In a county whose population is 400,000 or more, if a notice is required to be sent pursuant to subsection 4:

(a) The exterior of a notice sent by mail; or

(b) The cover sheet, heading or subject line of a notice sent by electronic means,

➡ must bear a statement, in at least 10-point bold type or font, in substantially the following form:

OFFICIAL NOTICE OF PUBLIC HEARING

7. In addition to sending the notice required pursuant to subsection 4, in a county whose population is 400,000 or more, the governing body shall, not later than 10 days before the hearing, erect or cause to be erected on the property at least one sign not less than 2 feet high and 2 feet wide. The sign

must be made of material reasonably calculated to withstand the elements for 40 days. The governing body must be consistent in its use of colors for the background and lettering of the sign. The sign must include the following information:

- (a) The existing zoning designation of the property in question;
- (b) The proposed zoning designation of the property in question;
- (c) The date, time and place of the public hearing;
- (d) A telephone number which may be used by interested persons to obtain additional information; and
- (e) A statement which indicates whether the proposed zoning designation of the property in question complies with the requirements of the master plan of the city or county in which the property is located.

8. A sign required pursuant to subsection 7 is for informational purposes only and must be erected regardless of any local ordinance regarding the size, placement or composition of signs to the contrary.

9. A governing body may charge an additional fee for each application to amend an existing zoning regulation, restriction or boundary to cover the actual costs resulting from the mailed notice required by this section and the erection of not more than one of the signs required by subsection 7, if any. The additional fee is not subject to the limitation imposed by NRS 354.5989.

10. The governing body shall remove or cause to be removed any sign required by subsection 7 within 5 days after the final hearing for the application for which the sign was erected. There must be no additional charge to the applicant for such removal.

11. If a proposed amendment involves a change in the boundary of a zoning district in a county whose population is 400,000 or more that would reduce the density or intensity with which a parcel of land may be used and at least 20 percent of the property owners to whom notices were sent pursuant to subsection 4 indicate in their responses opposition to the proposed amendment, the governing body shall not approve the proposed amendment unless the governing body:

- (a) Considers separately the merits of each aspect of the proposed amendment to which the owners expressed opposition; and
- (b) Makes a written finding that the public interest and necessity will be promoted by approval of the proposed amendment.

12. The governing body of a county whose population is 400,000 or more shall not approve a zoning regulation, restriction or boundary, or an amendment thereof, that affects any unincorporated area of the county that is surrounded completely by the territory of an incorporated city without sending a notice to the governing body of the city. The governing body of the city, or its designee, must submit any recommendations to the governing body of the county within 15 days after receiving the notice. The governing body of the county shall consider any such recommendations. If the governing body of the county does not accept a recommendation, the

governing body of the county, or its authorized agent, shall specify for the record the reasons for its action.

Sec. 10. NRS 278.315 is hereby amended to read as follows:

278.315 1. The governing body may provide by ordinance for the granting of variances, special use permits, conditional use permits or other special exceptions by the board of adjustment, the planning commission or a hearing examiner appointed pursuant to NRS 278.262. The governing body may impose this duty entirely on the board, commission or examiner, respectively, or provide for the granting of enumerated categories of variances, special use permits, conditional use permits or special exceptions by the board, commission or examiner.

2. A hearing to consider an application for the granting of a variance, special use permit, conditional use permit or special exception must be held before the board of adjustment, planning commission or hearing examiner within 65 days after the filing of the application, unless a longer time or a different process of review is provided in an agreement entered into pursuant to NRS 278.0201.

3. In a county whose population is less than 100,000, notice setting forth the time, place and purpose of the hearing must be sent at least 10 days before the hearing to:

- (a) The applicant;
- (b) Each owner of real property, as listed on the county assessor's records, located within 300 feet of the property in question;
- (c) If a mobile home park is located within 300 feet of the property in question, each tenant of that mobile home park; ~~and~~
- (d) Any advisory board which has been established for the affected area by the governing body ~~[-]~~; *and*
- (e) *If a military installation is located within 3,000 feet of the property in question, the commander of that military installation.*

4. Except as otherwise provided in subsection 7, in a county whose population is 100,000 or more, a notice setting forth the time, place and purpose of the hearing must be sent at least 10 days before the hearing to:

- (a) The applicant;
- (b) If the application is for a deviation of at least 10 percent but not more than 30 percent from a standard for development:
 - (1) Each owner, as listed on the county assessor's records, of real property located within 100 feet of the property in question; and
 - (2) Each tenant of a mobile home park located within 100 feet of the property in question;
- (c) If the application is for a special use permit or a deviation of more than 30 percent from a standard for development:
 - (1) Each owner, as listed on the county assessor's records, of real property located within 500 feet of the property in question;
 - (2) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest the property in question, to the extent

this notice does not duplicate the notice given pursuant to subparagraph (1); and

(3) Each tenant of a mobile home park located within 500 feet of the property in question;

(d) If the application is for a project of regional significance, as that term is described in NRS 278.02542:

(1) Each owner, as listed on the county assessor's records, of real property located within 750 feet of the property in question;

(2) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest the property in question, to the extent this notice does not duplicate the notice given pursuant to subparagraph (1); and

(3) Each tenant of a mobile home park located within 750 feet of the property in question; ~~and~~

(e) Any advisory board which has been established for the affected area by the governing body ~~[-]~~; and

(f) If a military installation is located within 3,000 feet of the property in question, the commander of that military installation.

5. If an application is filed with the governing body for the issuance of a special use permit with regard to property situated within an unincorporated town that is located more than 10 miles from an incorporated city, the governing body shall, at least 10 days before the hearing on the application is held pursuant to subsection 2, transmit a copy of any information pertinent to the application to the town board, citizens' advisory council or town advisory board, whichever is applicable, of the unincorporated town. The town board, citizens' advisory council or town advisory board may make recommendations regarding the application and submit its recommendations before the hearing on the application is held pursuant to subsection 2. The governing body or other authorized person or entity conducting the hearing shall consider any recommendations submitted by the town board, citizens' advisory council or town advisory board regarding the application and, within 10 days after making its decision on the application, shall transmit a copy of its decision to the town board, citizens' advisory council or town advisory board.

6. An applicant or a protestant may appeal a decision of the board of adjustment, planning commission or hearing examiner in accordance with the ordinance adopted pursuant to NRS 278.3195.

7. In a county whose population is 400,000 or more, if the application is for the issuance of a special use permit for an establishment which serves alcoholic beverages for consumption on or off of the premises as its primary business in a district which is not a gaming enterprise district as defined in NRS 463.0158, the governing body shall, at least 10 days before the hearing:

(a) Send a notice setting forth the time, place and purpose of the hearing to:

(1) The applicant;

(2) Each owner, as listed on the county assessor's records, of real property located within 1,500 feet of the property in question;

(3) The owner, as listed on the county assessor's records, of each of the 30 separately owned parcels nearest the property in question, to the extent this notice does not duplicate the notice given pursuant to subparagraph (2);

(4) Each tenant of a mobile home park located within 1,500 feet of the property in question; ~~and~~

(5) Any advisory board which has been established for the affected area by the governing body; and

(6) *If a military installation is located within 3,000 feet of the property in question, the commander of that military installation; and*

(b) Erect or cause to be erected on the property, at least one sign not less than 2 feet high and 2 feet wide. The sign must be made of material reasonably calculated to withstand the elements for 40 days. The governing body must be consistent in its use of colors for the background and lettering of the sign. The sign must include the following information:

(1) The existing permitted use and zoning designation of the property in question;

(2) The proposed permitted use of the property in question;

(3) The date, time and place of the public hearing; and

(4) A telephone number which may be used by interested persons to obtain additional information.

8. A sign required pursuant to subsection 7 is for informational purposes only and must be erected regardless of any local ordinance regarding the size, placement or composition of signs to the contrary.

9. A governing body may charge an additional fee for each application for a special use permit to cover the actual costs resulting from the erection of not more than one sign required by subsection 7, if any. The additional fee is not subject to the limitation imposed by NRS 354.5989.

10. The governing body shall remove or cause to be removed any sign required by subsection 7 within 5 days after the final hearing for the application for which the sign was erected. There must be no additional charge to the applicant for such removal.

11. The notice required to be provided pursuant to subsections 3, 4 and 7 must be sent by mail or, if requested by a party to whom notice must be provided pursuant to those subsections, by electronic means if receipt of such an electronic notice can be verified, and must be written in language which is easy to understand. The notice must set forth the time, place and purpose of the hearing and a physical description or map of the property in question.

12. The provisions of this section do not apply to an application for a conditional use permit filed pursuant to NRS 278.147.

Sec. 11. NRS 278.3195 is hereby amended to read as follows:

278.3195 1. Except as otherwise provided in NRS 278.310, each governing body shall adopt an ordinance providing that any person who is aggrieved by a decision of:

(a) The planning commission, if the governing body has created a planning commission pursuant to NRS 278.030;

(b) The board of adjustment, if the governing body has created a board of adjustment pursuant to NRS 278.270;

(c) A hearing examiner, if the governing body has appointed a hearing examiner pursuant to NRS 278.262; or

(d) Any other person appointed or employed by the governing body who is authorized to make administrative decisions regarding the use of land,

➡ may appeal the decision to the governing body. In a county whose population is 400,000 or more, a person shall be deemed to be aggrieved under an ordinance adopted pursuant to this subsection if the person appeared, either in person, through an authorized representative or in writing, before a person or entity described in paragraphs (a) to (d), inclusive, on the matter which is the subject of the decision.

2. Except as otherwise provided in NRS 278.310, an ordinance adopted pursuant to subsection 1 must set forth, without limitation:

(a) The period within which an appeal must be filed with the governing body.

(b) The procedures pursuant to which the governing body will hear the appeal.

(c) That the governing body may affirm, modify or reverse a decision.

(d) The period within which the governing body must render its decision except that:

(1) In a county whose population is 400,000 or more, that period must not exceed 45 days.

(2) In a county whose population is less than 400,000, that period must not exceed 60 days.

(e) That the decision of the governing body is a final decision for the purpose of judicial review.

(f) That, in reviewing a decision, the governing body will be guided by the statement of purpose underlying the regulation of the improvement of land expressed in NRS 278.020.

(g) That the governing body may charge the appellant a fee for the filing of an appeal.

3. In addition to the requirements set forth in subsection 2, in a county whose population is 400,000 or more, an ordinance adopted pursuant to subsection 1 must:

(a) Set forth procedures for the consolidation of appeals; and

(b) Prohibit the governing body from granting to an aggrieved person more than two continuances on the same matter, unless the governing body determines, upon good cause shown, that the granting of additional continuances is warranted.

4. Any person who:

(a) Has appealed a decision to the governing body in accordance with an ordinance adopted pursuant to subsection 1; and

(b) Is aggrieved by the decision of the governing body,
→ may appeal that decision to the district court of the proper county by filing a petition for judicial review within 25 days after the date of filing of notice of the decision with the clerk or secretary of the governing body, as set forth in NRS 278.0235.

5. *As used in this section, "person" includes the Armed Forces of the United States or an official component or representative thereof.*

Sec. 12. [NRS 278.4787 is hereby amended to read as follows:

278.4787 1. Except as otherwise provided in subsection 5, a person who proposes to divide land for transfer or development into four or more lots pursuant to NRS 278.360 to 278.460, inclusive, or chapter 278A of NRS, may, in lieu of providing for the creation of an association for a common-interest community, request the governing body of the jurisdiction in which the land is located to assume the maintenance of one or more of the following improvements located on the land:

- (a) Landscaping;
- (b) Public lighting;
- (c) Security walls; and
- (d) Trails, parks and open space which provide a substantial public benefit or which are required by the governing body for the primary use of the public.

2. A governing body shall establish by ordinance a procedure pursuant to which a request may be submitted pursuant to subsection 1 in the form of a petition, which must be signed by a majority of the owners whose property will be assessed and which must set forth descriptions of all tracts of land or residential units that would be subject to such an assessment.

3. The governing body may by ordinance designate a person to approve or disapprove a petition submitted pursuant to this section. If the governing body adopts such an ordinance, the ordinance must provide, without limitation:

(a) Procedures pursuant to which the petition must be reviewed to determine whether it would be desirable for the governing body to assume the maintenance of the proposed improvements.

(b) Procedures for the establishment of a maintenance district or unit of assessment.

(c) A method for:

(1) Determining the relative proportions in which the assumption of the maintenance of the proposed improvements by the governing body will:

(I) Benefit the development or subdivision in which the improvements are located; and

(II) Benefit the public;

(2) Assessing the tracts of land or residential units in the development or subdivision to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements, in the proportion

that such maintenance will benefit the development or subdivision in which the improvements are located; and

(3) Allocating an amount of public money to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements, in the proportion that such maintenance will benefit the public.

(d) Procedures for a petitioner or other aggrieved person to appeal to the governing body a decision of the person designated by the governing body by ordinance adopted pursuant to this subsection to approve or disapprove a petition.

4. If the governing body does not designate by an ordinance adopted pursuant to subsection 3 a person to approve or disapprove a petition, the governing body shall, after receipt of a complete petition submitted at least 120 days before the approval of the final map for the land, hold a public hearing at least 90 days before the approval of the final map for the land, unless otherwise waived by the governing body, to determine the desirability of assuming the maintenance of the proposed improvements. If the governing body determines that it would be undesirable for the governing body to assume the maintenance of the proposed improvements, the governing body shall specify for the record its reasons for that determination. If the governing body determines that it would be desirable for the governing body to assume the maintenance of the proposed improvements, the governing body shall by ordinance:

(a) Determine the relative proportions in which the assumption of the maintenance of the proposed improvements by the governing body will:

(1) Benefit the development or subdivision in which the improvements are located; and

(2) Benefit the public.

(b) Create a maintenance district or unit of assessment consisting of the tracts of land or residential units set forth in the petition or include the tracts of land or residential units set forth in the petition in an existing maintenance district or unit of assessment.

(c) Establish the method or, if the tracts or units are included within an existing maintenance district or unit of assessment, apply an existing method for determining:

(1) The amount of an assessment to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements. The amount of the assessment must be determined in accordance with the proportion to which such maintenance will benefit the development or subdivision in which the improvements are located.

(2) The time and manner of payment of the assessment.

(d) Provide that the assessment constitutes a lien upon the tracts of land or residential units within the maintenance district or unit of assessment. The lien must be executed, and has the same priority, as a lien for property taxes.

(e) Prescribe the levels of maintenance to be provided.

(f) Allocate to the cost of providing the maintenance the appropriate amount of public money to pay for that part of the maintenance which creates the public benefit.

(g) Address any other matters that the governing body determines to be relevant to the maintenance of the improvements, including, without limitation, matters relating to the ownership of the improvements and the land on which the improvements are located and any exposure to liability associated with the maintenance of the improvements.

5. If the governing body requires an owner of land to dedicate a tract of land as a trail identified in the recreation plan of the governing body adopted pursuant to paragraph ~~[(j)] (4)~~ of subsection 1 of NRS 278.160, the governing body shall:

(a) Accept ownership of the tract; and

(b) Assume the maintenance of the tract and any other improvement located on the land that is authorized in subsection 1.

6. The governing body shall record, in the office of the county recorder for the county in which the tracts of land or residential units included in a petition approved pursuant to this section are located, a notice of the creation of the maintenance district or unit of assessment that is sufficient to advise the owners of the tracts of land or residential units that the tracts of land or residential units are subject to the assessment. The costs of recording the notice must be paid by the petitioner.

7. The provisions of this section apply retroactively to a development or subdivision with respect to which:

(a) An agreement or agreements between the owners of tracts of land within the development or subdivision and the developer allow for the provision of services in the manner set forth in this section; or

(b) The owners of affected tracts of land or residential units agree to dissolve the association for their common-interest community in accordance with the governing documents of the common-interest community upon approval by the governing body of a petition filed by the owners pursuant to this section.] *(Deleted by amendment.)*

Sec. 13. [NRS 279.608 is hereby amended to read as follows:

279.608 1. If, at any time after the adoption of a redevelopment plan by the legislative body, the agency desires to take an action that will constitute a material deviation from the plan or otherwise determines that it would be necessary or desirable to amend the plan, the agency must recommend the amendment of the plan to the legislative body. An amendment may include the addition of one or more areas to any redevelopment area.

2. Before recommending amendment of the plan, the agency shall hold a public hearing on the proposed amendment. Notice of that hearing must be published at least 10 days before the date of hearing in a newspaper of general circulation, printed and published in the community, or, if there is none, in a newspaper selected by the agency. The notice of hearing must include a legal description of the boundaries of the area designated in the

plan to be amended and a general statement of the purpose of the amendment.

3. In addition to the notice published pursuant to subsection 2, the agency shall cause a notice of hearing on a proposed amendment to the plan to be sent by mail at least 10 days before the date of the hearing to each owner of real property, as listed in the records of the county assessor, whom the agency determines is likely to be directly affected by the proposed amendment. The notice must:

- (a) Set forth the date, time, place and purpose of the hearing and a physical description of, or a map detailing, the proposed amendment; and
- (b) Contain a brief summary of the intent of the proposed amendment.

4. If after the public hearing, the agency recommends substantial changes in the plan which affect the master or community plan adopted by the planning commission or the legislative body, those changes must be submitted by the agency to the planning commission for its report and recommendation. The planning commission shall give its report and recommendations to the legislative body within 30 days after the agency submitted the changes to the planning commission.

5. After receiving the recommendation of the agency concerning the changes in the plan, the legislative body shall hold a public hearing on the proposed amendment, notice of which must be published in a newspaper in the manner designated for notice of hearing by the agency. If after that hearing the legislative body determines that the amendments in the plan, proposed by the agency, are necessary or desirable, the legislative body shall adopt an ordinance amending the ordinance adopting the plan.

6. As used in this section, "material deviation" means an action that, if taken, would alter significantly one or more of the aspects of a redevelopment plan that are required to be shown in the redevelopment plan pursuant to NRS 279.572. The term includes, without limitation, the vacation of a street that is depicted in the streets and highways plan of the master plan described in paragraph ~~[(p)]-(q)~~ of subsection 1 of NRS 278.160 which has been adopted for the community and the relocation of a public park. The term does not include the vacation of a street that is not depicted in the streets and highways plan of the master plan described in paragraph ~~[(p)]-(q)~~ of subsection 1 of NRS 278.160 which has been adopted for the community.]
(Deleted by amendment.)

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 280.

Bill read second time.

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

Amendment No. 55.

"SUMMARY—Revises provisions related to patients' bills. (BDR 54-303)"

"AN ACT relating to health care; providing that certain health care bills must be provided to a patient within ~~[120 days after the charge is incurred,]~~ a specified period of time; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a provider of health care must give each patient a bill which itemizes any services, equipment, supplies or medicine provided. (NRS 629.071) The existing statute specifies that the bill must be provided in a timely manner after the charges are incurred. (NRS 629.071) Various individual practitioners are subject to this requirement, as are licensed hospitals when acting as an employer of such practitioners. (NRS 629.071)

This bill replaces the provision requiring the bill to be provided in a timely manner with a requirement that the patient's bill be provided within 120 days after ~~[the charge is incurred,]~~ certain specified events. Additionally, licensed hospitals are no longer subject to the requirement, as the definition of "provider of health care" has been revised specifically for this provision.

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

Section 1. NRS 629.071 is hereby amended to read as follows:

629.071 1. Each provider of health care shall, on his bill to a patient, itemize all charges for services, equipment, supplies and medicines provided for the patient in terms which the patient is able to understand.

2. The bill must be ~~[timely]~~ provided to the patient at no additional cost ~~[within 120 days]~~ after the charge is incurred ~~[at no additional cost to the patient,]~~ and not more than 120 days after the later of:

(a) The date that the provider of health care receives the correct billing information to contact the patient;

(b) If the patient provides information to the provider of health care concerning coverage by a health care insurer or the provider of health care otherwise determines that the patient has such coverage, the date that the provider of health care receives documentation from the patient's health care insurer indicating its final determination of the extent of the benefits, if any, provided by the health care insurer; and

(c) If the patient does not provide information to the provider of health care concerning coverage by a health care insurer, the date that the provider of health care determines that the patient does not have coverage by a health care insurer.

3. As used in this section ~~f, "provider]~~ :

(a) "Health care insurer" means any insurer that provides any type of policy, contract, agreement or plan providing health coverage or benefits in accordance with state or federal law, including, without limitation, a provider of industrial insurance.

(b) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, chiropractor, athletic trainer, doctor of Oriental medicine in any form, medical laboratory director or technician, or pharmacist.

Senator Carlton moved the adoption of the amendment.

Remarks by Senators Carlton, Titus and Heck.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 292.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 354.

"SUMMARY—Enacts the Uniform Mediation Act. (BDR 3-1114)"

"AN ACT relating to mediation; enacting the Uniform Mediation Act; providing that the Uniform Mediation Act does not apply to certain mediation programs; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The National Conference of Commissioners on Uniform State Laws promulgated the Uniform Mediation Act in 2001 and amended it in 2003.

Section 13 of this bill provides that the Act applies to all mediations, except those involving the family court mediation program established pursuant to NRS 3.475 or 3.500, the mediation program established by the Nevada Supreme Court pursuant to NRS 38.250 to 38.259, inclusive, collective bargaining, minors in a primary or secondary school peer review context, prison inmate mediation and proceedings conducted by judicial officers who might rule in a dispute or who are not prohibited by court rule from disclosing mediation communications with a court, agency or other authority. In addition, section 13 allows parties to opt out of the Act.

Section 14 of this bill provides that a mediation communication is not subject to discovery or admission into evidence in a formal proceeding, unless an exception to this rule applies. Under section 14, in proceedings following a mediation, a party may refuse to disclose, and prevent any other person from disclosing, a mediation communication. Mediators and nonparty participants may refuse to disclose their own statements made during mediation, and may prevent others from disclosing them as well.

Section 15 of this bill provides for the waiver of a privilege for mediation communications and for the circumstances in which a party is precluded from asserting the privilege. Section 16 of this bill provides for exceptions to the privileges for mediation communications. Section 16 also provides that if a court, administrative agency or arbitration panel finds that the need for the information outweighs the interest in confidentiality in a felony or

misdemeanor proceeding or a proceeding to prove a claim or defense to reform or avoid liability on a contract arising out of the mediation, there is no privilege.

Section 17 of this bill prohibits a mediator, other than a judicial officer, from submitting a report or certain other information to a court, agency or other authority that may make a ruling on the dispute that is the subject of the mediation. The mediator may report that a mediation is ongoing or has concluded, attendance at the mediation and mediation communications evidencing abuse, neglect or abandonment or other nonprivileged mediation matters.

Section 19 of this bill does not prescribe qualifications or other professional standards for mediators, but requires a mediator to disclose his or her qualifications upon request by a party to the mediation. Section 19 also requires a mediator to disclose conflicts of interest before accepting a mediation or as soon as practicable after discovery.

Section 21 of this bill adopts by reference the Model Law on International Commercial Conciliation, promulgated by the United Nations Commission on International Trade Law in 2002. Section 21 provides that, unless there is an agreement otherwise, this Model Law applies to any mediation that is an international commercial mediation.

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

Section 1. Chapter 38 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 23, inclusive, of this act.

Sec. 2. *Sections 2 to 23, inclusive, of this act may be cited as the Uniform Mediation Act.*

Sec. 3. *As used in sections 2 to 23, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 12, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Mediation" means a process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute.*

Sec. 5. *"Mediation communication" means a statement, whether oral or in a record or verbal or nonverbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing or reconvening a mediation or retaining a mediator.*

Sec. 6. *"Mediation party" means a person that participates in a mediation and whose agreement is necessary to resolve the dispute.*

Sec. 7. *"Mediator" means an individual who conducts a mediation.*

Sec. 8. *"Nonparty participant" means a person, other than a party or mediator, that participates in a mediation.*

Sec. 9. *"Person" means an individual, corporation, business trust, estate, trust, partnership, limited-liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation or any other legal or commercial entity.*

Sec. 10. "Proceeding" means:

1. A judicial, administrative, arbitral or other adjudicative process, including, without limitation, related prehearing and posthearing motions, conferences and discovery; or

2. A legislative hearing or similar process.

Sec. 11. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Sec. 12. "Sign" means:

1. To execute or adopt a tangible symbol with the present intent to authenticate a record; or

2. To attach or logically associate an electronic symbol, sound or process to or with a record with the present intent to authenticate a record.

Sec. 13. 1. Except as otherwise provided in subsection 2 or 3, sections 2 to 23, inclusive, of this act apply to a mediation in which:

(a) The mediation parties are required to mediate by statute or court or administrative agency rule or referred to mediation by a court, administrative agency or arbitrator;

(b) The mediation parties and the mediator agree to mediate in a record that demonstrates an expectation that mediation communications will be privileged against disclosure; or

(c) The mediation parties use as a mediator an individual who holds himself out as a mediator or the mediation is provided by a person that holds itself out as providing mediation.

2. Sections 2 to 23, inclusive, of this act do not apply to a mediation:

(a) Relating to the establishment, negotiation, administration or termination of a collective bargaining relationship;

(b) Relating to a dispute that is pending under or is part of the processes established by a collective bargaining agreement, except that sections 2 to 23, inclusive, of this act apply to a mediation arising out of a dispute that has been filed with an administrative agency or court;

(c) Conducted by a judge who might make a ruling on the case; or

(d) Conducted under the auspices of:

(1) A primary or secondary school if all the parties are students; or

(2) A correctional institution for youths if all the parties are residents of that institution.

(e) Conducted under a program of mandatory mediation established pursuant to NRS 3.475 or 3.500.

(f) Conducted under a program of mediation adopted by the Supreme Court pursuant to NRS 38.250 to 38.259, inclusive.

3. If the parties agree in advance in a signed record, or a record of proceeding reflects agreement by the parties, that all or part of a mediation is not privileged, the privileges under sections 14, 15 and 16 of this act do not apply to the mediation or part agreed upon. However, sections 14, 15 and 16 of this act apply to a mediation communication made by a person

that has not received actual notice of the agreement before the communication is made.

Sec. 14. 1. *Except as otherwise provided in section 16 of this act, a mediation communication is privileged as provided in subsection 2 and is not subject to discovery or admissible in evidence in a proceeding unless waived or precluded as provided by section 15 of this act.*

2. *In a proceeding, the following privileges apply:*

(a) *A mediation party may refuse to disclose, and may prevent any other person from disclosing, a mediation communication.*

(b) *A mediator may refuse to disclose a mediation communication and may prevent any other person from disclosing a mediation communication of the mediator.*

(c) *A nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a mediation communication of the nonparty participant.*

3. *Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by reason of its disclosure or use in a mediation.*

Sec. 15. 1. *A privilege under section 14 of this act may be waived in a record or orally during a proceeding if it is expressly waived by all parties to the mediation and:*

(a) *In the case of the privilege of a mediator, it is expressly waived by the mediator; and*

(b) *In the case of the privilege of a nonparty participant, it is expressly waived by the nonparty participant.*

2. *A person that discloses or makes a representation about a mediation communication which prejudices another person in a proceeding is precluded from asserting a privilege under section 14 of this act, but only to the extent necessary for the person prejudiced to respond to the representation or disclosure.*

3. *A person that intentionally uses a mediation to plan, attempt to commit or commit a crime or conceal an ongoing crime or ongoing criminal activity is precluded from asserting a privilege under section 14 of this act.*

Sec. 16. 1. *There is no privilege under section 14 of this act for a mediation communication that is:*

(a) *In an agreement evidenced by a record signed by all parties to the agreement;*

(b) *Available to the public under chapter 239 of NRS or made during a session of a mediation which is open, or is required by law to be open, to the public;*

(c) *A threat or statement of a plan to inflict bodily injury or commit a crime of violence;*

(d) *Intentionally used to plan a crime, attempt to commit or commit a crime or conceal an ongoing crime or ongoing criminal activity;*

(e) Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediator;

(f) Except as otherwise provided in subsection 3, sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediation party, nonparty participant or representative of a party based on conduct occurring during a mediation; or

(g) Sought or offered to prove or disprove abuse, neglect, abandonment or exploitation in a proceeding in which a child or adult protective services agency is a party, unless the child or adult protection case is referred by a court to mediation and a public agency participates.

2. There is no privilege under section 14 of this act if a court, administrative agency or arbitrator finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that the evidence is not otherwise available, that there is a need for the evidence that substantially outweighs the interest in protecting confidentiality and that the mediation communication is sought or offered in:

(a) A court proceeding involving a felony or misdemeanor; or

(b) Except as otherwise provided in subsection 3, a proceeding to prove a claim to rescind or reform or a defense to avoid liability on a contract arising out of the mediation.

3. A mediator may not be compelled to provide evidence of a mediation communication referred to in paragraph (f) of subsection 1 or paragraph (b) of subsection 2.

4. If a mediation communication is not privileged under subsection 1 or 2, only the portion of the communication necessary for the application of the exception from nondisclosure may be admitted. Admission of evidence under subsection 1 or 2 does not render the evidence or any other mediation communication discoverable or admissible for any other purpose.

Sec. 17. 1. Except as otherwise required in subsection 2, a mediator may not make a report, assessment, evaluation, recommendation, finding or other communication regarding a mediation to a court, administrative agency or other authority that may make a ruling on the dispute that is the subject of the mediation.

2. A mediator may disclose:

(a) Whether the mediation occurred or has terminated, whether a settlement was reached and attendance;

(b) A mediation communication as permitted under section 16 of this act; or

(c) A mediation communication evidencing abuse, neglect, abandonment or exploitation of an individual to a public agency responsible for protecting individuals against such mistreatment.

3. A communication made in violation of subsection 1 may not be considered by a court, administrative agency or arbitrator.

Sec. 18. *Unless subject to chapters 239 and 241 of NRS, mediation communications are confidential to the extent agreed by the parties or provided by other law or rule of this State.*

Sec. 19. 1. *Before accepting a mediation, an individual who is requested to serve as a mediator shall:*

(a) Make an inquiry that is reasonable under the circumstances to determine whether there are any known facts that a reasonable individual would consider likely to affect the impartiality of the mediator, including, without limitation, a financial or personal interest in the outcome of the mediation and an existing or past relationship with a mediation party or foreseeable participant in the mediation; and

(b) Disclose any such known fact to the mediation parties as soon as is practical before accepting a mediation.

2. *If a mediator learns any fact described in paragraph (a) of subsection 1 after accepting a mediation, the mediator shall disclose it as soon as is practicable.*

3. *At the request of a mediation party, an individual who is requested to serve as a mediator shall disclose the mediator's qualifications to mediate a dispute.*

4. *A person that violates subsection 1, 2 or 7 is precluded by the violation from asserting a privilege under section 14 of this act.*

5. *Subsections 1, 2, 3 and 7 do not apply to an individual acting as a judge.*

6. *Sections 2 to 23, inclusive, of this act do not require that a mediator have a special qualification by background or profession.*

7. *A mediator must be impartial, unless after disclosure of the facts required in subsections 1 and 2 to be disclosed, the parties agree otherwise.*

Sec. 20. *An attorney or other individual designated by a party may accompany the party to and participate in a mediation. A waiver of participation given before the mediation may be rescinded.*

Sec. 21. 1. *Except as otherwise provided in subsections 2 and 3, if a mediation is an international commercial mediation, the mediation is governed by the Model Law.*

2. *Unless the parties agree in accordance with subsection 3 of section 13 of this act that all or part of an international commercial mediation is not privileged, sections 14, 15 and 16 of this act and any applicable definitions in sections 4 to 12, inclusive, of this act also apply to the mediation and nothing in Article 10 of the Model Law derogates from sections 14, 15 and 16 of this act.*

3. *If the parties to an international commercial mediation agree under Article 1, subsection (7), of the Model Law that the Model Law does not apply, sections 2 to 23, inclusive, of this act apply.*

4. *As used in this section:*

(a) "International commercial mediation" means an international commercial conciliation as defined in Article 1 of the Model Law.

(b) *"Model Law" means the Model Law on International Commercial Conciliation adopted by the United Nations Commission on International Trade Law on June 28, 2002, and recommended by the United Nations General Assembly in a resolution (A/RES/57/18), dated November 19, 2002.*

Sec. 22. *Sections 2 to 23, inclusive, of this act modify, limit or supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq., but do not modify, limit or supersede Section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. § 7003(b).*

Sec. 23. *In applying and construing the Uniform Mediation Act, consideration should be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.*

Sec. 24. NRS 40.680 is hereby amended to read as follows:

40.680 1. Except as otherwise provided in this chapter, before a claimant commences an action or amends a complaint to add a cause of action for a constructional defect against a contractor, subcontractor, supplier or design professional, the matter must be submitted to mediation, unless mediation is waived in writing by the contractor, subcontractor, supplier or design professional and the claimant.

2. The claimant and each party alleged to have caused the constructional defect must select a mediator by agreement. If the claimant and the other parties fail to agree upon a mediator within 20 days after a mediator is first selected by the claimant, any party may petition the American Arbitration Association, the Nevada Arbitration Association, Nevada Dispute Resolution Services or any other mediation service acceptable to the parties for the appointment of a mediator. A mediator so appointed may discover only those documents or records which are necessary to conduct the mediation. The mediator shall convene the mediation within 30 days after the matter is submitted to him and shall complete the mediation within 45 days after the matter is submitted to him, unless the parties agree to extend the time.

3. Before the mediation begins:

(a) The claimant shall deposit \$50 with the mediation service; and

(b) Each other party shall deposit with the mediation service, in equal shares, the remaining amount estimated by the mediation service as necessary to pay the fees and expenses of the mediator for the first session of mediation and shall deposit additional amounts demanded by the mediation service as incurred for that purpose.

4. Unless otherwise agreed, the total fees for each day of mediation and the mediator must not exceed \$750 per day.

5. If the parties do not reach an agreement concerning the matter during mediation or if any party who is alleged to have caused the constructional defect fails to pay the required fees and appear, the claimant may commence an action or amend a complaint to add a cause of action for the constructional defect in court and:

(a) The reasonable costs and fees of the mediation are recoverable by the prevailing party as costs of the action.

(b) Any party may petition the court in which the action is commenced for the appointment of a special master.

6. A special master appointed pursuant to subsection 5 may:

(a) Review all pleadings, papers or documents filed with the court concerning the action.

(b) Coordinate the discovery of any books, records, papers or other documents by the parties, including the disclosure of witnesses and the taking of the deposition of any party.

(c) Order any inspections on the site of the property by a party and any consultants or experts of a party.

(d) Order settlement conferences and attendance at those conferences by any representative of the insurer of a party.

(e) Require any attorney representing a party to provide statements of legal and factual issues concerning the action.

(f) Refer to the judge who appointed him or to the presiding judge of the court in which the action is commenced any matter requiring assistance from the court.

➡The special master shall not, unless otherwise agreed by the parties, personally conduct any settlement conferences or engage in any ex parte meetings regarding the action.

7. Upon application by a party to the court in which the action is commenced, any decision or other action taken by a special master appointed pursuant to this section may be appealed to the court for a decision.

8. A report issued by a ~~mediator or~~ special master that indicates that a party has failed to appear before him or to mediate in good faith is admissible in the action. ~~[- but a statement or admission made by a party in the course of mediation is not admissible.]~~

Sec. 25. ~~[NRS 3.475 is hereby amended to read as follows:~~

~~3.475 1. In a county whose population is 400,000 or more, the district court shall establish by rule approved by the Supreme Court a program of mandatory mediation in cases that involve the custody or visitation of a child.~~

~~2. The program must:~~

~~(a) Require the impartial mediation of the issues of custody and visitation and authorize the impartial mediation of any other nonfinancial issue deemed appropriate by the court.~~

~~(b) Authorize the court to exclude a case from the program for good cause shown, including, but not limited to, a showing that:~~

~~(1) There is a history of child abuse or domestic violence by one of the parties;~~

~~(2) The parties are currently participating in private mediation; or~~

~~(3) One of the parties resides outside of the jurisdiction of the court.~~

~~(c) Provide standards for the training of the mediators assigned to cases, including, but not limited to:~~

~~(1) Minimum educational requirements, which must not be restricted to any particular professional or educational training;~~

~~(2) Minimum requirements for training in the procedural aspects of mediation and the interpersonal skills necessary to act as a mediator;~~

~~(3) A minimum period of apprenticeship for persons who have not previously acted as domestic mediators;~~

~~(4) Minimum requirements for continuing education; and~~

~~(5) Procedures to ensure that potential mediators understand the high standard of ethics and confidentiality related to their participation in the program.~~

~~(d) Prohibit the mediator from reporting to the court any information about the mediation other than [whether the dispute was resolved.] the information which the mediator may disclose pursuant to subsection 2 of section 17 of this act.~~

~~(e) Establish a sliding schedule of fees for participation in the program based on the ability of a party to pay.~~

~~(f) Provide for the acceptance of gifts and grants offered in support of the program.~~

~~(g) Allow the court to refer the parties to a private mediator.~~

~~3. The costs of the program must be paid from the county general fund. All fees, gifts and grants collected pursuant to this section must be deposited in the county general fund.~~

~~4. The court shall submit a report to the Director of the Legislative Counsel Bureau for distribution to each regular session of the Legislature on or before March 1 of each odd-numbered year that must include:~~

~~(a) A summary of the number and types of cases mediated and resolved by the program during the previous biennium;~~

~~(b) The fees collected by the program and any gifts or grants received by the court to support the program; and~~

~~(c) Suggestions for any necessary legislation to improve the effectiveness and efficiency of the program.~~

~~5. This section does not prohibit a court from referring a financial or other issue to a special master or other person for assistance in resolving the dispute.] (Deleted by amendment.)~~

Sec. 26. ~~[NRS 3.500 is hereby amended to read as follows:~~

~~3.500 1. In a county whose population is more than 100,000 and less than 400,000, the district court shall establish by rule approved by the Supreme Court a program of mandatory mediation in cases which involve the custody or visitation of a child. A district court in a county whose population is 100,000 or less may establish such a program in the same manner for use in that county. The district courts in two or more counties whose populations are 100,000 or less may establish such a program in the same manner for use in the counties in which the courts are located.~~

~~2. The program must:~~

~~(a) Require the impartial mediation of the issues of custody and visitation and any other nonfinancial issue deemed appropriate by the court.~~

~~(b) Allow the court to exclude a case from the program for good cause shown, including a showing of a history of child abuse or domestic violence by one of the parties, ongoing private mediation or residency of one of the parties out of the jurisdiction of the court.~~

~~(c) Provide standards for the training of the mediators assigned to cases pursuant to the rule, including but not limited to:~~

~~(1) Minimum educational requirements, which may not be restricted to any particular professional or educational training;~~

~~(2) Minimum requirements for training in the procedural aspects of mediation and the interpersonal skills necessary to act as a mediator;~~

~~(3) A minimum period of apprenticeship for persons who have not previously acted as domestic mediators;~~

~~(4) Minimum requirements for continuing education; and~~

~~(5) Procedures to ensure that potential mediators understand the high standard of ethics and confidentiality related to their participation in the program.~~

~~(d) Prohibit the mediator from reporting to the court any information about the mediation other than [whether the mediation was successful or not.] the information which the mediator may disclose pursuant to subsection 2 of section 17 of this act.~~

~~(e) Establish a sliding schedule of fees for participation in the program based on the client's ability to pay.~~

~~(f) Provide for the acceptance of gifts and grants offered in support of the program.~~

~~(g) Allow the court to refer the parties to a private mediator for assistance in resolving the issues.~~

~~3. The costs of the program must be paid from the account for dispute resolution in the county general fund. All fees, gifts and grants collected pursuant to this section must be deposited in the account.~~

~~4. The district court in any county which has established a program pursuant to this section shall submit a report to the Director of the Legislative Counsel Bureau for distribution to each regular session of the Legislature on or before March 1 of each odd-numbered year. If two or more district courts establish such a program, only one of those courts is required to submit such a report for that program. The report must include a summary of the number and type of cases mediated and resolved by the program during the previous biennium, the fees collected by the program and any gifts or grants received by the court or courts to support the program. The report must also contain suggestions for any necessary legislation to improve the effectiveness and efficiency of the program.~~

~~5. This section does not prohibit a court from referring a financial or other issue to a special master or other person for assistance in resolving the dispute.] (Deleted by amendment.)~~

Sec. 27. NRS 48.109 is hereby amended to read as follows:

48.109 1. A meeting held to further the resolution of a dispute may be closed at the discretion of the mediator.

2. ~~[The]~~ In a mediation conducted under a program of mandatory mediation established pursuant to NRS 3.475 or 3.500 or under a program of mediation adopted by the Supreme Court pursuant to NRS 38.250 to 38.259, inclusive, the proceedings of the mediation session must be regarded as settlement negotiations, and no admission, representation or statement made during the session, not otherwise discoverable or obtainable, is admissible as evidence or subject to discovery.

3. A mediator who conducted a mediation under a program of mandatory mediation established pursuant to NRS 3.475 or 3.500 or under a program of mediation adopted by the Supreme Court pursuant to NRS 38.250 to 38.259, inclusive, is not subject to civil process requiring the disclosure of any matter discussed during the mediation proceedings.

Sec. 28. 1. The amendatory provisions of this act govern a mediation pursuant to a referral or an agreement to mediate made on or after October 1, 2007.

2. On or after October 1, 2008, the amendatory provisions of this act govern an agreement to mediate whenever made.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 305.

Bill read second time.

The following amendment was proposed by the Committee on Human Resources and Education:

Amendment No. 419.

~~"SUMMARY—[Revises provisions governing education. (BDR 34-97)]"~~
Makes an appropriation to the Department of Education for educational programs and assistance for school districts and public schools. (BDR S-97)

~~"AN ACT relating to education; establishing the Program of Voucher Schools to be administered by the Department of Education; revising provisions governing the apportionments of money from the State Distributive School Account for payments to voucher schools; requiring that the appointment of the Superintendent of Public Instruction by the State Board of Education be confirmed or rejected by the Senate; authorizing the parents and guardians of certain pupils to choose which public schools the pupils will attend; authorizing certain local governments to veto matters passed by the boards of trustees of school districts within their jurisdiction; making an appropriation to the Department of Education for certain educational programs and assistance for school districts and public schools; and providing other matters properly relating thereto."~~

~~Legislative Counsel's Digest~~

~~Existing law establishes the system of public education in this State. (Title 24 of NRS)~~

~~Sections 8-17 of this bill establish a Program of Voucher Schools, to be administered by the Department of Education. A licensed private school may submit an application to the Department for certification as a voucher school. A child may apply to participate in the Program if he attends, or is scheduled to attend, a school that is designated as demonstrating need for improvement for 3 consecutive years or more under the school accountability laws or he is from a family of low income. Not more than 10 percent of the children who reside within each school district may be approved to participate in the Program. A pupil who participates in the Program and is enrolled in a voucher school must be included in the count of pupils for purposes of apportionments and allowances from the State Distributive School Account.~~

~~Section 18 of this bill requires the appointment of the Superintendent of Public Instruction by the State Board of Education to be confirmed or rejected by the State Senate. (NRS 385.150) Confirmation of the appointment requires a majority vote of the Senate.~~

~~Existing law authorizes certain school districts to establish zones of attendance that prescribe which children attend each school within the district. (NRS 388.040) Section 36 of this bill authorizes a parent or guardian to apply for his child to attend a public school outside the zone of attendance or to attend a public school in another school district. A child is eligible if he is required to attend a public school that is designated as demonstrating need for improvement for 1 or more consecutive years under the school accountability laws or he is from a family of low income.~~

~~Existing law authorizes the boards of trustees of school districts to carry out the system of public education within their respective districts. (NRS 386.250) Sections 43 and 44 of this bill authorize the board of county commissioners or the governing body of a city in the county to veto matters passed by the board of trustees. This veto power applies to the governing body of a city only with respect to matters pertaining to the public schools that are located in part or in whole within the city.~~

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

Delete existing sections 1 through 50 of this bill and replace with the following new sections 1 through 4:

Section 1. 1. There is hereby appropriated from the State General Fund to the Department of Education for grants of money to school districts and charter schools pursuant to this section:

For the 2007-2008 Fiscal Year.....\$98,192,418

For the 2008-2009 Fiscal Year.....\$102,540,017

2. Except as otherwise provided in subsection 6, the Department shall allocate the money appropriated by subsection 1 as follows:

(a) For programs of full-day kindergarten established in accordance with section 2 of this act:

(1) For the Fiscal Year 2007-2008.....\$26,274,725

(2) For the Fiscal Year 2008-2009.....\$27,879,334

(b) For programs of performance pay and enhanced compensation for licensed educational personnel established in accordance with section 3 of this act:

(1) For the Fiscal Year 2007-2008.....\$29,665,947

(2) For the Fiscal Year 2008-2009.....\$31,070,767

(c) For the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379:

(1) For the Fiscal Year 2007-2008.....\$42,251,746

(2) For the Fiscal Year 2008-2009.....\$43,589,916

3. The board of trustees of a school district may, based upon requests submitted by the principals of the public schools located within the school district, submit an application for a grant of money from the appropriation made by subsection 1 to the Department. The governing body of a charter school may submit an application for a grant of money from the appropriation made by subsection 1 to the Department. The application must be on a form prescribed by the Department. The Department may use the form prescribed pursuant to NRS 385.3785 for applications for a grant of money for a program of innovation or the prevention of remediation. The form prescribed by the Department must include, without limitation:

(a) The amount of money requested and the intended use of the money, which must be based on practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils and include one or more of the following:

(1) A program of full-day kindergarten established in accordance with section 2 of this act;

(2) A program of performance pay and enhanced compensation for licensed educational personnel established in accordance with section 3 of this act;

(3) Programs that incorporate educational technology;

(4) Programs of peer mediation;

(5) The program used by the Geographic Alliance in Nevada;

(6) Programs for the certification of counselors offered in this State or offered by a national certification agency;

(7) Assistance for the support teams established pursuant to NRS 385.3721 for non-Title I schools, including, without limitation, to pay for substitute teachers as necessary for the teachers at the school who serve on the support team to carry out the duties and responsibilities of the support team;

(8) Programs of career and technical education;

(9) A program of empowerment schools which is designed to provide schools with site-based decision making; and

(10) Programs for innovation and the prevention of remediation that use programs, practices and strategies that have been proven effective in improving the academic achievement and proficiency of pupils.

(b) A prioritized list of the schools and programs or assistance, as applicable, for which the school district is requesting a grant of money.

(c) A prioritized list of the programs or assistance, as applicable, for which the charter school is requesting a grant of money.

4. The Department shall transmit all applications received for a program described in subparagraphs (3) to (10), inclusive, of paragraph (a) of subsection 3 to the Commission on Educational Excellence for its review. If the application is for a program of innovation or the prevention of remediation, the Commission shall review the application in accordance with NRS 385.3785. If the application is for another type of program or assistance pursuant to subparagraphs (3) to (9), inclusive, of paragraph (a) of subsection 3, the Commission shall, to the extent practicable, review the application in accordance with NRS 385.3785.

5. Except as otherwise provided in subsection 6, on or before August 15 of each fiscal year of the 2007-2009 biennium, the Department and the Commission on Educational Excellence, as applicable, shall provide grants of money to school districts and charter schools with approved applications based upon the amount of money that is necessary to carry out the educational programs or assistance, as set forth in the application of the school district or charter school. If an insufficient amount of money is available to pay for the total amount requested in each application, the money from the appropriation must be distributed in a fair and equitable manner among the school districts and charter schools with approved applications based upon the prioritized list submitted by each school district and charter school pursuant to subsection 3.

6. After the grants are made pursuant to subsection 5, if money remains for a particular allocation for a fiscal year pursuant to paragraph (a), (b) or (c) of subsection 2, the Department may reallocate the remaining money in that fiscal year in a fair and equitable manner to school districts and charter schools with approved applications.

7. The board of trustees of a school district and the governing body of a charter school that receive a grant of money pursuant to this section shall not use the money for the construction or maintenance of buildings or facilities.

8. The Commission on Educational Excellence shall ensure, to the extent practicable, that grants of money provided for a program of empowerment schools:

(a) Reflect the economic and geographic diversity of this State, the academic needs of pupils, any special academic interests of pupils and any other special concerns of pupils, including, without limitation, schools that have a large population of Native Americans.

(b) Are allocated to at least one school in each school district that applies for a grant of money for the support of a program of empowerment schools.

9. The board of trustees of each school district and the governing body of each charter school that receives a grant of money pursuant to this section shall, on or before February 1, 2009, submit a written report to the Department of Education, the Governor and the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature. The report must include, without limitation:

(a) The name of each school that received an allocation from the grant and the amount of each allocation;

(b) The program or other assistance for which each school expended the money; and

(c) An evaluation of the program or other assistance for which each school expended the money, including, without limitation, the effectiveness of the program or assistance on the achievement of pupils enrolled in the school.

10. If a grant of money is made pursuant to this section for a program of empowerment schools, the Department of Education:

(a) Shall develop a uniform method for the evaluation of the program of empowerment schools and the progress of empowerment schools in a manner that provides a statistical analysis of longitudinal data.

(b) Shall conduct an evaluation using measurable outcomes and indicators to assess the achievement of pupils enrolled in empowerment schools.

(c) May conduct such other evaluations, surveys or studies deemed necessary to evaluate the programs of empowerment schools and the progress of empowerment schools.

(d) Shall submit a written report of the results of the evaluation and any other surveys or studies conducted pursuant to this subsection on or before February 1, 2009, to the Governor and the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature.

11. The sums appropriated by subsection 1 are available for either fiscal year. Any remaining balance of those sums must not be committed for expenditure after June 30, 2009, 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 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. 2. 1. A school district or charter school that applies for a grant of money pursuant to section 1 of this act may use the money to provide full-day kindergarten in each school within the school district that is prioritized for

full-day kindergarten based upon the percentage of pupils enrolled in the school who are eligible for free or reduced-price lunches pursuant to 42 U.S.C. §§ 1751 et seq. If a school district chooses to use the money that it receives pursuant to section 1 of this act to provide full-day kindergarten, the school district shall allocate the money by assigning first priority to those schools within the school district that have the highest percentage of pupils who are eligible for free or reduced-price lunches. If a school within a school district or a charter school provides full-day kindergarten with money that it receives from the Federal Government or other funding allocations, the school may redirect that money, to the extent authorized by applicable federal law, for other programs of remediation at the school and use the money provided pursuant to section 1 of this act to provide full-day kindergarten.

2. A school that is otherwise eligible to provide full-day kindergarten pursuant to subsection 1 may elect not to provide full-day kindergarten.

3. A parent or legal guardian of a pupil who is otherwise zoned to attend a public school that provides full-day kindergarten pursuant to this section may request that the pupil not be enrolled in full-day kindergarten. The school district in which the pupil is enrolled shall grant the request and ensure that the pupil is allowed to attend kindergarten, whether at the zoned school or another school, for less than a full school day.

Sec. 3. A school district or charter school that applies for a grant of money pursuant to section 1 of this act may use the money to provide a program of performance pay and enhanced compensation for the recruitment, retention and mentoring of licensed educational personnel negotiated pursuant to chapter 288 of NRS or NRS 386.595, as applicable, which includes one or more of the following components:

1. Skills-based pay pursuant to which licensed employees develop certain skills verified through licensure, certification or some other method.

2. A "career ladder" program, pursuant to which licensed employees who perform at or above specified standards receive an increase in compensation. Each step requires additional growth, professional development, expertise and additional responsibilities, including, without limitation, mentoring.

3. A program for mentoring of teachers which provides for the payment of increased compensation for mentor teachers and which includes criteria for the selection of mentor teachers and teachers who will be mentored.

4. Market-based pay, pursuant to which one-time bonuses are paid to retain licensed employees who provide instruction in high-need subject areas such as mathematics, science and special education and to retain licensed employees who teach in at-risk schools.

5. The payment of signing bonuses and other financial incentives for licensed employees who:

(a) Are newly hired by the school district or charter school and have been employed by the school district or charter school for at least 30 days; and

(b) Have not been previously employed by a school district or charter school in this State.

6. The payment of bonuses to licensed employees based upon the attainment of specified standards of achievement by pupils.

7. The payment of the cost for a licensed teacher to purchase one-fifth of a year of service if:

(a) The teacher is employed at a school at which at least 65 percent of the pupils who are enrolled in the school are children who are at risk;

(b) The teacher is employed at a school which carries the designation of demonstrating need for improvement; or

(c) The teacher holds an endorsement in the field of mathematics, science, special education or English as a second language.

Sec. 4. This act becomes effective on July 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 307.

Bill read second time.

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

Amendment No. 308.

"SUMMARY—Revises certain provisions relating to state and local governmental purchasing. (BDR 27-782)"

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

Legislative Counsel's Digest:

Under existing law, persons who have bid on a contract proposed to be awarded by a local government or by the Purchasing Division of the Department of Administration are prohibited from soliciting or obtaining proprietary information regarding the contract from officers or employees of the governmental entity on whose behalf the contract is being offered. (NRS 332.810, 333.800) Sections 2 and 4 of this bill expand this prohibition to include the soliciting or obtaining of information regarding another person's bid on the contract, unless such information is available to the general public. ~~Sections 1 and 3~~ Section 5 of this bill ~~prohibit~~ prohibits officers and employees of the ~~governmental entity on whose behalf a contract is being offered~~ State or a local government from offering or providing to a bidder on ~~the~~ a purchasing contract with the State or local

government certain information before the award of the contract. ~~[Sections 1 and 2]~~ Section 5 also ~~[require]~~ requires those officers and employees to refuse inducements offered by bidders and to report such inducements to their immediate supervisors.

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

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

Section 1. ~~[Chapter 332 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1.—An officer or employee of a local government who receives an offer or promise described in paragraph (a) or (b) of subsection 1 of NRS 332.810 shall:~~

~~(a) Refuse the offer or promise; and~~

~~(b) Within 72 hours after receiving the offer or promise, report the occurrence to his immediate supervisor or, if he does not have an immediate supervisor, to the administrative head of the agency by which he is employed.~~

~~2.—Before a contract is awarded pursuant to this chapter, an officer or employee of the local government shall not offer or provide to a person who has bid on the contract:~~

~~(a) Any proprietary information regarding the contract; or~~

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

~~3.—An officer or employee of a local government who violates the provisions of subsection 1 or 2 is subject to disciplinary action.] (Deleted by amendment.)~~

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

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

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

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

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

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

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

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

Sec. 3. ~~[Chapter 333 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1.—An officer or employee of the Purchasing Division or of a using agency who receives an offer or promise described in paragraph (a) or (b) of subsection 1 of NRS 333.800 shall:~~

~~(a) Refuse the offer or promise; and~~

~~(b) Within 72 hours after receiving the offer or promise, report the occurrence to his immediate supervisor or, if he does not have an immediate supervisor, to the administrative head of the agency by which he is employed.~~

~~2.—Before a contract is awarded pursuant to this chapter, an officer or employee of the Purchasing Division or of a using agency shall not offer or provide to a person who has bid on the contract:~~

~~(a) Any proprietary information regarding the contract; or~~

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

~~3.—An officer or employee of the Purchasing Division or of a using agency who violates the provisions of subsection 1 or 2 is subject to disciplinary action.] (Deleted by amendment.)~~

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

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

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

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

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

(1) Any proprietary information regarding the contract; or

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

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

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

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

(a) Refuse the offer or promise; and

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

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

(a) Any proprietary information regarding the contract; or

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

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

4. As used in this section:

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

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

~~[Sec. 5.]~~ Sec. 6. NRS 281.236 is hereby amended to read as follows:

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

2. A person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 463 of NRS shall not employ a former member of the

State Gaming Control Board or the Nevada Gaming Commission for 1 year after the termination of the member's service on the Board or Commission.

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

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

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

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

4. *A former public officer or employee of the State or a local government, except a clerical employee, shall not solicit or accept employment from a person to whom a contract for supplies, materials, equipment or services was awarded by the State or a local government pursuant to chapter 332 of NRS or by the Purchasing Division of the Department of Administration pursuant to chapter 333 of NRS shall not, except as otherwise provided in subsection 5, employ a former public officer or employee of the local government or Purchasing Division, as applicable, except a clerical employee, as applicable, for 1 year after the termination of the officer's or employee's service or period of employment, if:*

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

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

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

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

(a) The best interests of the public;

(b) The continued integrity of State Government; and

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

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

~~{5-}~~ 6. As used in this section, "regulation" has the meaning ascribed to it in NRS 233B.038.

Senator Titus moved the adoption of the amendment.

Remarks by Senator Titus.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 317.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 357.

"SUMMARY—Makes various changes to provisions relating to agents for service of ~~[process.]~~ process and business entities. (BDR 7-445)"

"AN ACT relating to ~~[agents for service of process; providing in skeleton form for the certification and regulation of agents for service of process and for the elimination of the formation of new corporations sole; providing penalties.]~~ business entities; establishing provisions relating to the judgment execution of a stockholder's stock; revising the provisions relating to the location of a registered office of a corporation; revising the provisions relating to the maintenance of a corporation's records at its registered office; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[This bill provides in skeleton form for the certification and regulation of agents for service of process and for the elimination of the formation of new corporations sole.]~~

~~This bill creates the State Board of Registered Agents and sets forth the Board's functions and duties. This bill also establishes provisions relating to the issuance, renewal, reinstatement, suspension or revocation of a certificate for commercial registered agency. This bill further establishes provisions relating to disciplinary proceedings against a registered agent. Finally, this bill makes it a misdemeanor to violate certain provisions relating to commercial registered agents.~~

~~This bill also prohibits the formation of a new corporation sole on or after July 1, 2007, and eliminates certain provisions relating to the formation and reinstatement of a corporation sole.]~~ Existing law allows a court to charge the interest of a partner in a partnership or limited partnership or a member of a limited-liability company for payment of an unsatisfied judgment under certain circumstances. (NRS 86.401, 87.280, 87.4342, 88.535) Section 1 of this bill provides that a court may charge a stockholder's stock with payment of an unsatisfied judgment under certain circumstances.

Existing law requires every corporation to have a resident agent who resides or is located in this State. (NRS 78.090) Section 2 of this bill requires every resident agent to maintain a physical street address. Section 2 also requires the physical street address of the registered office of a resident

agent who acts as a resident agent for multiple business entities to be in a location zoned for such use.

Existing law establishes provisions relating to the maintenance of a corporation's records at its registered office. (NRS 78.105) Section 3 of this bill requires certain records to be maintained for a period of 3 years by a new resident agent who replaces a previous resident agent.

Existing law provides that certain benefits and property may be exempt from execution. (NRS 21.075, 21.090, 31.045) Sections 4-7 of this bill provide that stock of certain corporations may be exempt from execution under certain circumstances.

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

Delete existing sections 1 through 38 of this bill and replace with the following new sections 1 through 7:

Section 1. Chapter 78 of NRS is hereby amended by adding thereto a new section to read as follows:

1. On application to a court of competent jurisdiction by a judgment creditor of a stockholder, the court may charge the stockholder's stock with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the stockholder's stock.

2. This section:

(a) Applies only to a corporation that:

(1) Has one or more but fewer than 75 stockholders of record at any time.

(2) Is not a subsidiary of a publicly traded corporation, either in whole or in part.

(3) Is not a professional corporation, as defined in NRS 89.020.

(b) Does not apply to any liability of a stockholder that exists as the result of an action filed before October 1, 2007.

(c) Provides the exclusive remedy by which a judgment creditor of a stockholder or an assignee of a stockholder may satisfy a judgment out of the stockholder's stock of the corporation.

(d) Does not deprive any stockholder of the benefit of any exemption applicable to the stockholder's stock.

(e) Does not supersede any private agreement between a stockholder and a creditor.

Sec. 2. NRS 78.090 is hereby amended to read as follows:

78.090 1. Except during any period of vacancy described in NRS 78.097, every corporation must have a resident agent who resides or is located in this State. Every resident agent must ~~have~~ maintain a physical street address for the receiving service of process, and which is the registered office of the corporation in this State. If the resident agent is in the business of acting as a resident agent for multiple business entities, the physical street address of the registered office must be in a location that is

zoned for such use. The resident agent may have a separate mailing address, such as a post office box, which may be different from the street address. ~~[The street address of the resident agent is the registered office of the corporation in this State.]~~

2. If the resident agent is a bank or corporation, it may:

(a) Act as the fiscal or transfer agent of any state, municipality, body politic or corporation and in that capacity may receive and disburse money.

(b) Transfer, register and countersign certificates of stock, bonds or other evidences of indebtedness and act as agent of any corporation, foreign or domestic, for any purpose required by statute, or otherwise.

(c) Act as trustee under any mortgage or bond issued by any municipality, body politic or corporation, and accept and execute any other municipal or corporate trust not inconsistent with the laws of this State.

(d) Receive and manage any sinking fund of any corporation, upon such terms as may be agreed upon between the corporation and those dealing with it.

3. Every corporation organized pursuant to this chapter which fails or refuses to comply with the requirements of this section is subject to a fine of not less than \$100 nor more than \$500, to be recovered with costs by the State, before any court of competent jurisdiction, by action at law prosecuted by the Attorney General or by the district attorney of the county in which the action or proceeding to recover the fine is prosecuted.

4. All legal process and any demand or notice authorized by law to be served upon a corporation may be served upon the resident agent of the corporation in the manner provided in subsection 2 of NRS 14.020. If any demand, notice or legal process, other than a summons and complaint, cannot be served upon the resident agent, it may be served in the manner provided in NRS 14.030. These manners and modes of service are in addition to any other service authorized by law.

Sec. 3. NRS 78.105 is hereby amended to read as follows:

78.105 1. A corporation shall keep a copy of the following records at its registered office:

(a) A copy certified by the Secretary of State of its articles of incorporation, and all amendments thereto;

(b) A copy certified by an officer of the corporation of its bylaws and all amendments thereto; and

(c) A stock ledger or a duplicate stock ledger, revised annually, containing the names, alphabetically arranged, of all persons who are stockholders of the corporation, showing their places of residence, if known, and the number of shares held by them respectively. In lieu of the stock ledger or duplicate stock ledger, the corporation may keep a statement setting out the name of the custodian of the stock ledger or duplicate stock ledger, and the present and complete mailing or street address where the stock ledger or duplicate stock ledger specified in this section is kept.

2. A stock ledger, duplicate stock ledger or statement setting out the name of the custodian of the stock ledger or duplicate stock ledger described in paragraph (c) of subsection 1 must be maintained by the new resident agent of the corporation for a period of 3 years following the resignation or removal of the resident agent or the dissolution of the corporation by the Secretary of State.

3. Any person who has been a stockholder of record of a corporation for at least 6 months immediately preceding his demand, or any person holding, or thereunto authorized in writing by the holders of, at least 5 percent of all of its outstanding shares, upon at least 5 days' written demand is entitled to inspect in person or by agent or attorney, during usual business hours, the records required by subsection 1 and make copies therefrom. Holders of voting trust certificates representing shares of the corporation must be regarded as stockholders for the purpose of this subsection. Every corporation that neglects or refuses to keep the records required by subsection 1 open for inspection, as required in this subsection, shall forfeit to the State the sum of \$25 for every day of such neglect or refusal.

~~{2.}~~ 4. If any corporation willfully neglects or refuses to make any proper entry in the stock ledger or duplicate copy thereof, or neglects or refuses to permit an inspection of the records required by subsection 1 upon demand by a person entitled to inspect them, or refuses to permit copies to be made therefrom, as provided in subsection ~~{2.}~~ 3, the corporation is liable to the person injured for all damages resulting to him therefrom.

~~{4.}~~ 5. When the corporation keeps a statement in the manner provided for in paragraph (c) of subsection 1, the information contained thereon must be given to any stockholder of the corporation demanding the information, when the demand is made during business hours. Every corporation that neglects or refuses to keep a statement available, as in this subsection required, shall forfeit to the State the sum of \$25 for every day of such neglect or refusal.

~~{5.}~~ 6. In every instance where an attorney or other agent of the stockholder seeks the right of inspection, the demand must be accompanied by a power of attorney signed by the stockholder authorizing the attorney or other agent to inspect on behalf of the stockholder.

~~{6.}~~ 7. The right to copy records under subsection ~~{2.}~~ 3 includes, if reasonable, the right to make copies by photographic, xerographic or other means.

~~{7.}~~ 8. The corporation may impose a reasonable charge to recover the costs of labor and materials and the cost of copies of any records provided to the stockholder.

Sec. 4. NRS 21.075 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

4. Proceeds from a policy of life insurance.

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

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

7. Payments received as unemployment compensation.

8. Veteran's benefits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20. Payments received as restitution for a criminal act.

21. Stock of certain corporations, subject to the provisions of section 1 of this act.

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

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

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

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

Sec. 5. NRS 21.090 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does

not exceed \$15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the \$15,000 bears to the whole annual premium paid.

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

(m) The dwelling of the judgment debtor occupied as a home for himself and family, where the amount of equity held by the judgment debtor in the home does not exceed \$350,000 in value and the dwelling is situated upon lands not owned by him.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(y) Stock of certain corporations, subject to the provisions of section 1 of this act.

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

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

Sec. 6. NRS 31.045 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

4. Proceeds from a policy of life insurance.

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

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

7. Payments received as unemployment compensation.

8. Veteran's benefits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20. Payments received as restitution for a criminal act.

21. Stock of certain corporations, subject to the provisions of section 1 of this act.

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

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

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

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

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

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

Sec. 7. NRS 31.050 is hereby amended to read as follows:

31.050 Subject to the order for attachment and the provisions of section 1 of this act and chapter 104 of NRS, the right of shares which the defendant may have in the stock of any corporation or company, together with the interest and profits therein, and all debts due such defendant, and all other property in this State of such defendant not exempt from execution, may be attached, and if judgment be recovered, be sold to satisfy the judgment and execution.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 321.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 436.

"SUMMARY—Provides certain economic incentives for ~~registered~~ certain motion picture companies. (BDR 18-1182)"

"AN ACT relating to economic development; providing that certain fees relating to the operation of motor vehicles do not apply to ~~the registered~~ certain motion picture ~~company~~; ~~clarifying that certain sales to a registered motion picture company are not taxable;~~ companies; providing an abatement from certain sales and use taxes for certain motion picture companies; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a motion picture company to register with the Division of Motion Pictures of the Commission on Economic Development before engaging in the production of a motion picture in this State. ~~§ (NRS 231.128) Section 1 of this bill requires the issuance of a letter of registration to a motion picture company that complies with the requirements for registration, and exempts entities that produce motion pictures from the requirement to obtain a state business license and various requirements applicable to foreign corporations, foreign limited-liability companies and foreign limited partnerships. (NRS 80.015, 86.5483, 88.602, 231.128, 360.765) Sections 2, 3 and 5-9 of this bill revise the description of those entities to which these existing laws apply.~~

Existing law requires a person who uses certain special fuels for the propulsion of motor vehicles in this State to obtain a license or temporary permit, and provides for the collection of fees for that purpose. (NRS 366.220, 366.223) ~~Sections 2 and 3~~ 4, 10 and 11 of this bill exempt certain registered motion picture companies who agree to employ Nevada residents from the payment of those fees.

~~§ Existing law provides for the administration of the sales and use taxes imposed in this State by the Department of Taxation. (Chapters 372 and 374 of NRS) Sections 4 and 5 of this bill prohibit the Department from considering as taxable the sale of property to or the use of property by a registered motion picture company.~~

Existing law creates the Local School Support Tax Law. (Chapter 374 of NRS) Any amendment to the Local School Support Tax Law is also applicable to other sales and use taxes imposed under existing law. (NRS 354.705, 374A.020, 376A.060, 377.040, 377A.030, 377B.110 and 543.600, and various special and local acts) Sections 4 and 12 of this bill provide for an abatement of these taxes for certain registered motion picture companies who agree to employ Nevada residents.

Existing law authorizes the Board of Directors of the Department of Transportation to allow the movement of oversize or overweight vehicles on the public highways of this State pursuant to permits issued by the Department, and to establish reasonable fees for those permits. (NRS 484.743) Existing law requires the imposition of an additional fee for the issuance of a continuous permit for the movement of such a vehicle to cover the expenses of conducting an initial investigation of the highways involved. (NRS 484.765) ~~Sections 6 and 7~~ 4, 13 and 14 of this bill exempt

certain registered motion picture companies who agree to employ Nevada residents from the payment of those fees.

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

Delete existing sections 1 through 8 of this bill and replace with the following new sections 1 through 15:

Section 1. Chapter 231 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. "Motion picture" means any feature film, short film, documentary, movie made for television, television program, television series, television pilot, television special or other similar video, digital or electronic production that is:

1. Made, in whole or in part, in this State for commercial purposes; and

2. Intended to be distributed:

(a) In movie theaters;

(b) Over a broadcast, cable, digital or electronic television network;

(c) On videotape, videodisc or other video, digital or electronic medium;

or

(d) Over the Internet.

Sec. 3. "Motion picture company" means any business or organization that creates or produces a motion picture.

Sec. 4. The Division of Motion Pictures shall:

1. Certify a motion picture company as eligible for the exemptions from fees and abatement of taxes provided pursuant to NRS 366.220, 366.223, 484.743 and 484.765 and section 12 of this act, if the motion picture company:

(a) Is registered pursuant to NRS 231.128; and

(b) Submits an application for that certification to the Division which:

(1) Contains a provision pursuant to which the motion picture company agrees to ensure that at least 30 percent of the persons employed full time by or under contract with the motion picture company at each of its production sites for a motion picture in this State are residents of this State; and

(2) Is signed by a person who is authorized to enter into an agreement on behalf of the motion picture company;

2. Issue a certificate of eligibility to each motion picture company the Division certifies pursuant to this section; and

3. Forward to the Department of Taxation a copy of each certificate of eligibility the Division issues pursuant to this section.

Sec. 5. NRS 231.020 is hereby amended to read as follows:

231.020 As used in NRS 231.020 to 231.139, inclusive, and sections 2, 3 and 4 of this act, unless the context otherwise requires, ~~"motion pictures" includes feature films, movies made for broadcast on television and programs made for broadcast on television in episodes.~~ the words and terms defined in sections 2 and 3 of this act have the meanings ascribed to them in those sections.

Sec. 6. NRS 80.015 is hereby amended to read as follows:

80.015 1. For the purposes of this chapter, the following activities do not constitute doing business in this State:

- (a) Maintaining, defending or settling any proceeding;
- (b) Holding meetings of the board of directors or stockholders or carrying on other activities concerning internal corporate affairs;
- (c) Maintaining accounts in banks or credit unions;
- (d) Maintaining offices or agencies for the transfer, exchange and registration of the corporation's own securities or maintaining trustees or depositaries with respect to those securities;
- (e) Making sales through independent contractors;
- (f) Soliciting or receiving orders outside of this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside of this State and filling them by shipping goods into this State;
- (g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;
- (h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;
- (i) Owning, without more, real or personal property;
- (j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;
- (k) The production of motion pictures as defined in ~~NRS 231.020,~~ section 2 of this act;
- (l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and
- (m) Transacting business in interstate commerce.

2. The list of activities in subsection 1 is not exhaustive.

3. A person who is not doing business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, chapter 645A, 645B or 645E of NRS or title 55 or 56 of NRS unless he:

- (a) Maintains an office in this State for the transaction of business; or
- (b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS.

4. The fact that a person is not doing business in this State within the meaning of this section:

- (a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and

(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not doing business in this State, including, without

limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.

5. As used in this section and for the purposes of NRS 80.016, "deposits" means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

Sec. 7. NRS 86.5483 is hereby amended to read as follows:

86.5483 1. For the purposes of NRS 86.543 to 86.549, inclusive, the following activities do not constitute transacting business in this State:

- (a) Maintaining, defending or settling any proceeding;
- (b) Holding meetings of the managers or members or carrying on other activities concerning internal company affairs;
- (c) Maintaining accounts in banks or credit unions;
- (d) Maintaining offices or agencies for the transfer, exchange and registration of the company's own securities or maintaining trustees or depositaries with respect to those securities;
- (e) Making sales through independent contractors;
- (f) Soliciting or receiving orders outside this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside this State and filling them by shipping goods into this State;
- (g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;
- (h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;
- (i) Owning, without more, real or personal property;
- (j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;
- (k) The production of motion pictures as defined in ~~NRS 231.020~~ section 2 of this act;
- (l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and
- (m) Transacting business in interstate commerce.

2. The list of activities in subsection 1 is not exhaustive.

3. A person who is not transacting business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, title 55 or 56 of NRS or chapter 645A, 645B or 645E of NRS unless he:

- (a) Maintains an office in this State for the transaction of business; or
- (b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS.

4. The fact that a person is not transacting business in this State within the meaning of this section:

- (a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction

over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and

(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not transacting business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.

5. As used in this section, "deposits" means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

Sec. 8. NRS 88.602 is hereby amended to read as follows:

88.602 1. For the purposes of NRS 88.570 to 88.605, inclusive, the following activities do not constitute transacting business in this State:

- (a) Maintaining, defending or settling any proceeding;
- (b) Holding meetings of the managers or members or carrying on other activities concerning internal company affairs;
- (c) Maintaining accounts in banks or credit unions;
- (d) Maintaining offices or agencies for the transfer, exchange and registration of the company's own securities or maintaining trustees or depositaries with respect to those securities;
- (e) Making sales through independent contractors;
- (f) Soliciting or receiving orders outside this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside this State and filling them by shipping goods into this State;
- (g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;
- (h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;
- (i) Owning, without more, real or personal property;
- (j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;
- (k) The production of motion pictures as defined in ~~NRS 231.020~~, section 2 of this act;
- (l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and
- (m) Transacting business in interstate commerce.

2. The list of activities in subsection 1 is not exhaustive.

3. A person who is not transacting business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, title 55 or 56 of NRS or chapter 645A, 645B or 645E of NRS unless he:

- (a) Maintains an office in this State for the transaction of business; or

(b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS.

4. The fact that a person is not transacting business in this State within the meaning of this section:

(a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and

(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not transacting business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.

5. As used in this section, "deposits" means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

Sec. 9. 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~~ section 2 of this act.

Sec. 10. NRS 366.220 is hereby amended to read as follows:

366.220 1. Except as otherwise provided in this chapter, it is unlawful for any:

(a) Special fuel supplier, special fuel dealer or special fuel user to sell or use special fuel within this State unless the special fuel supplier, special fuel dealer

or special fuel user is the holder of a special fuel supplier's, special fuel dealer's or special fuel user's license issued to him by the Department.

(b) Person to be a:

(1) Special fuel exporter unless the person is the holder of a special fuel exporter's license issued to him by the Department.

(2) Special fuel transporter unless the person is the holder of a special fuel transporter's license issued to him by the Department.

(c) Retailer or other person to sell or distribute dyed special fuel unless the retailer or person controls the access to the dyed special fuel.

2. ~~[The]~~ *Except as otherwise provided in subsection 3, the* Department may adopt regulations relating to the issuance of any special fuel supplier's, special fuel dealer's, special fuel exporter's, special fuel transporter's or special fuel user's license and the collection of fees therefor.

3. A motion picture company that holds a certificate of eligibility issued pursuant to section 4 of this act and is engaged in the making of a motion picture is exempt from the imposition of any fees for a special fuel user's license. If the motion picture company or a person affiliated with the motion picture company wishes to claim the exemption from the fee, the motion picture company or person claiming the exemption must give a copy of the certificate of eligibility of the motion picture company to the Department when applying for the special fuel user's license.

Sec. 11. NRS 366.223 is hereby amended to read as follows:

366.223 1. A special fuel user may, in lieu of causing a motor vehicle that has a declared gross weight in excess of 26,000 pounds to be licensed pursuant to the provisions of NRS 366.220, obtain a temporary permit for special fuel from a vendor authorized to issue permits pursuant to NRS 481.051 before entering the State or immediately upon entering the State. ~~[The]~~ *Except as otherwise provided in subsection 2, the* fee for a temporary permit for special fuel is \$30 and is not refundable.

2. A motion picture company that holds a certificate of eligibility issued pursuant to section 4 of this act and is engaged in the making of a motion picture is exempt from the imposition of the \$30 fee imposed pursuant to subsection 1 for any motor vehicle used in the making of the motion picture. If the motion picture company or a person affiliated with the motion picture company wishes to claim the exemption from the fee, the motion picture company or person claiming the exemption must give a copy of the certificate of eligibility of the motion picture company to the vendor issuing the temporary permit for special fuel.

3. Except as otherwise provided in subsection ~~[3.]~~ 4, a temporary permit for special fuel authorizes the operation of such a motor vehicle over the

highways of this State from point of entry to point of exit for not more than 24 consecutive hours.

~~[3.]~~ 4. The Department may issue to the owner or operator of a common motor carrier of passengers a temporary permit for special fuel that authorizes the operation of the motor carrier for not more than 120 consecutive hours.

~~[4.]~~ 5. The Department may adopt regulations relating to the issuance of a temporary permit for special fuel pursuant to this section.

Sec. 12. Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

A motion picture company that holds a certificate of eligibility issued pursuant to section 4 of this act and is engaged in the making of a motion picture is entitled to an abatement of the taxes imposed pursuant to this chapter on the gross receipts from the sale, and the storage, use or other consumption, of tangible personal property for use by that motion picture company. If the motion picture company or a person affiliated with the motion picture company wishes to claim the abatement, the motion picture company or person claiming the abatement:

1. May, as evidence of its eligibility for the abatement, give a copy of the certificate of eligibility of the motion picture company to a retailer who sells tangible personal property to the motion picture company; and

2. Shall submit to the Department:

(a) An itemized report of each purchase for which the abatement is claimed, which must include a copy of a receipt for each such purchase; and

(b) A remittance of any unpaid taxes due on each such purchase pursuant to chapter 372 of NRS.

Sec. 13. NRS 484.743 is hereby amended to read as follows:

484.743 1. The Board of Directors of the Department of Transportation may by resolution authorize the movement of vehicles upon the public highways, including without limitation motor vehicles, tractors, trailers, semitrailers and combinations thereof, of a size and weight in excess of the limits prescribed by this chapter, to such extent as may be authorized by any legislation enacted by the Congress of the United States permitting such increases without forfeiture of this State's eligibility for federal aid in highway construction and maintenance.

2. ~~[The]~~ *Except as otherwise provided in subsection 3, the* Board of Directors of the Department of Transportation may by resolution establish a reasonable fee or fees to be charged by the Department for the issuance of permits authorizing the operation of oversize or overweight vehicles as provided in this chapter. The fee or fees so established must be in an amount set so that the aggregate amounts received from the fee or fees do not exceed the estimated costs of administering the permit system.

3. A motion picture company that holds a certificate of eligibility issued pursuant to section 4 of this act and is engaged in the making of a motion picture is exempt from the imposition of any fees for the issuance of a permit

authorizing the operation of an oversize or overweight vehicle used in the making of the motion picture. If the motion picture company or a person affiliated with the motion picture company wishes to claim the exemption from the fee, the motion picture company or person claiming the exemption must give a copy of the certificate of eligibility of the motion picture company to the Department when applying for the permit.

Sec. 14. NRS 484.765 is hereby amended to read as follows:

484.765 1. No vehicle operated or moved upon any public highway under the authority of a continuous or multiple trip-limited time permit may exceed a maximum weight of 20,000 pounds on any single axle. ~~Before~~ Except as otherwise provided in subsection 3, before any continuous permit is issued, the applicant shall pay a reasonable fee to be determined by the Department of Transportation or the governing body of any city or county to pay the costs and expenses of conducting an initial investigation of the highway or highways involved.

2. If, after issuance of a continuous or multiple trip-limited time permit by the Department of Transportation or the governing body of any city or county, the Department or governing body finds that the traffic authorized by such continuous or multiple trip-limited time permit has caused substantial highway distress, the permit may be revoked summarily, but the revocation does not operate to prevent a subsequent filing of a new application for another continuous or multiple trip-limited time permit.

3. A motion picture company that holds a certificate of eligibility issued pursuant to section 4 of this act and is engaged in the making of a motion picture is exempt from the imposition of any fees established pursuant to subsection 1 for any vehicle used in the making of the motion picture. If the motion picture company or a person affiliated with the motion picture company wishes to claim the exemption from the fee, the motion picture company or person claiming the exemption must give a copy of the certificate of eligibility of the motion picture company to the Department when applying for the continuous permit.

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

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 324.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 438.

"SUMMARY—Makes various changes in the provision of funding for highway projects. (BDR 32-1139)"

~~"AN ACT relating to state financial administration; providing annual increases in the rates of state taxes on certain fuels for motor vehicles;"~~

revising the provisions governing the calculation of governmental services taxes due annually for used vehicles; allocating a portion of the proceeds of certain taxes to the construction and maintenance of public highways; increasing the fees for state driver's licenses and identification cards; requiring analyses of the costs and benefits of proposals for certain highway projects; requiring annual performance measurements of and various periodic reports by the Department of Transportation and the appointment of an interim legislative subcommittee to oversee the activities and performance of the Department; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~¶ Existing law imposes a state tax on certain motor vehicle fuel at the rate of 17.65 cents per gallon. (NRS 365.175) Section 2 of this bill increases that rate by 3 cents on July 1, 2007, and by another 3 cents on July 1, 2008, and thereafter imposes annual increases in that rate to reflect the rate of increase in the Consumer Price Index, but not to exceed 4.5 percent of the rate of that tax for the preceding year. Section 3 of this bill allocates the revenue from these increases to the construction and maintenance of the public highways.~~

~~Existing law imposes a state tax on certain special fuels used for the propulsion of motor vehicles at the rate of 27 cents per gallon. (NRS 366.190) Section 4 of this bill increases that rate by 3 cents on July 1, 2007, and by another 3 cents on July 1, 2008, and thereafter imposes annual increases in that rate to reflect the rate of increase in the Consumer Price Index, but not to exceed 4.5 percent of the rate of that tax for the preceding year. Section 5 of this bill allocates the revenue from these increases to the construction and maintenance of the public highways.]~~

Existing law sets forth depreciation schedules for determining the amount of governmental services taxes due each year for used vehicles and establishes a minimum tax of \$6. (NRS 371.060) Section 6 of this bill increases the amount of governmental services taxes due annually for used vehicles by reducing the amount of depreciation allowed and increasing the minimum tax to \$25. Sections 7 and 14-17 of this bill allocate the revenue from these increases in the basic governmental services tax to the construction and maintenance of the public highways.

Existing law provides for the imposition of state sales and use taxes at the rate of 2 percent of the retail sales price of tangible personal property. (NRS 372.105, 372.185) Sections 8 and 13 of this bill allocate the portion of the proceeds of those taxes attributable to sales by certain retailers to the construction and maintenance of the public highways.

Section 10 of this bill requires the adoption of performance measurements for the Department of Transportation and annual reports of performance. Section 11 of this bill requires the Department to prepare a written analysis of the costs and benefits of each proposal for a highway project that will cost \$25 million or more. Section 23 of this bill requires quarterly reports by the Department on the status of certain proposed highway projects. Section 24 of this bill provides for the appointment of a subcommittee of the Interim

Finance Committee to oversee the activities and performance of the Department during the next interim.

Sections 20-22 of this bill increase the fees for a regular state driver's license, a state identification card and a commercial driver's license by \$20.

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

Section 1. The Legislature hereby finds and declares that:

1. The increases in highway funding provided by the 1991 Nevada Legislature have been steadily eroded by inflation, causing the purchasing power of that funding to decrease by 44 percent since then.

2. Due to increases in the costs of highway construction, which according to the Federal Highway Administration amounted to 78.5 percent nationally from 1992 to 2005, the sources of revenue currently provided for highway funding have not kept up with the needs of this State.

3. The Blue Ribbon Task Force created by the Board of Directors of the Nevada Department of Transportation has identified, in a report dated December 5, 2006, a \$3.8 billion shortfall in the funding required for the highway projects necessary to meet the transportation needs of this State, including 10 essential "super and mega projects" proposed by the Nevada Department of Transportation.

4. These highway projects are necessary to ensure the economic well-being of the residents and businesses of this State, to enhance driving safety and to mitigate roadway congestion and environmental impacts.

5. It is critical that a solution be found to this crisis in transportation funding.

6. It is in the public interest to provide a sufficient stream of revenue and additional methods of funding for the highway projects identified by the Blue Ribbon Task Force in its report.

7. The provisions of this act, which may be cited as the Highway Funding and Accountability Act of 2007, will provide an improved highway system to the residents and businesses of this State and ensure the best possible return on the tax dollars collected for highway construction.

Sec. 2. ~~[NRS 365.175 is hereby amended to read as follows:~~

~~365.175 Except as otherwise provided in NRS 365.135, every supplier shall, not later than the last day of each calendar month:~~

~~1. Submit to the Department a statement of all motor vehicle fuel, except aviation fuel, sold, distributed or used by him in this State; and~~

~~2. Pay, for each calendar month of:~~

~~(a) The fiscal year commencing on July 1, 2007, an excise tax on all motor vehicle fuel, except aviation fuel, in the amount of [17.65 cents per] 20.65 cents for each gallon sold, distributed or used in the manner prescribed in this chapter;~~

~~(b) The fiscal year commencing on July 1, 2008, an excise tax on all motor vehicle fuel, except aviation fuel, in the amount of 23.65 cents for each gallon sold, distributed or used in the manner prescribed in this chapter.~~

~~(c) Each fiscal year commencing on or after July 1, 2009, an excise tax on all motor vehicle fuel, except aviation fuel, in an amount equal to the product of the amount of the tax imposed pursuant to this section for each calendar month of the immediately preceding fiscal year multiplied by 1 plus the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years, for each gallon sold, distributed or used in the manner prescribed in this chapter. Before the commencement of each fiscal year, the Department shall calculate the annual increase in the amount of the tax required pursuant to this paragraph and provide public notice of the amount of the tax imposed pursuant to this section for that fiscal year.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 365.540 is hereby amended to read as follows:~~

~~365.540 1. The money collected, as prescribed by NRS 365.175 and 365.185, from the tax on motor vehicle fuels, other than aviation fuel, after the remittances and deposits have first been made pursuant to the provisions of NRS 365.535, must be placed to the credit of the State Highway Fund by the State Treasurer. An amount equal to that part of the tax collected pursuant to NRS 365.175 [.,] which represents [5]:~~

~~(a) Five cents of the tax per gallon must be used exclusively for the construction and maintenance of public highways, and may not be used to purchase equipment related thereto.~~

~~(b) The portion of the tax in excess of 17.65 cents per gallon must be used exclusively for the construction and maintenance of public highways, and may not be used for any costs of administration or to purchase any equipment.~~

~~2. The money collected, as prescribed by NRS 365.180 and 365.190, after the remittances and deposits have first been made pursuant to the provisions of NRS 365.535, must be allocated by the Department as prescribed in NRS 365.550 and 365.560.~~

~~3. The money collected as prescribed by NRS 365.200 must be allocated by the Department as prescribed by NRS 365.550 and 365.560.~~

~~4. The money collected from the tax on aviation fuel must be deposited by the Department with the State Treasurer for credit to the Account for Taxes on Aviation Fuel, which is hereby created as a revolving account.] (Deleted by amendment.)~~

Sec. 4. ~~[NRS 366.190 is hereby amended to read as follows:~~

~~366.190 1. Except as otherwise provided in subsection 2, a tax is hereby imposed on the sale or use of special fuels during:~~

~~(a) The fiscal year commencing on July 1, 2007, at the rate of [27] 30 cents per gallon. [on the sale or use of special fuels.]~~

~~(b) The fiscal year commencing on July 1, 2008, at the rate of 33 cents per gallon.~~

~~(c) Each fiscal year commencing on or after July 1, 2009, at a rate per gallon equal to the product of the amount of the tax imposed pursuant to this subsection for the immediately preceding fiscal year multiplied by 1 plus~~

~~the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years. Before the commencement of each fiscal year, the Department shall calculate the annual increase in the amount of the tax required pursuant to this paragraph and provide public notice of the amount of the tax imposed pursuant to this subsection for that fiscal year.~~

~~2. A tax is hereby imposed at:~~

~~(a) The rate of 19 cents per gallon on the sale or use of an emulsion of water phased hydrocarbon fuel;~~

~~(b) The rate of 22 cents per gallon on the sale or use of liquefied petroleum gas; and~~

~~(c) The rate of 21 cents per gallon on the sale or use of compressed natural gas. (Deleted by amendment.)~~

Sec. 5. [NRS 366.700 is hereby amended to read as follows:

~~366.700 [All] 1. Except as otherwise provided in subsection 2, all the money received by the Department pursuant to the provisions of this chapter must be deposited with the State Treasurer to the credit of the Motor Vehicle Fund. An amount equal to that part of the tax collected pursuant to NRS 366.190 which represents 5 cents of the tax per gallon, minus the portion of that amount used to administer the Department of Motor Vehicles, must be used exclusively for the construction and maintenance of public highways, and may not be used to purchase equipment related thereto.~~

~~2. An amount equal to that part of the tax collected pursuant to subsection 1 of NRS 366.190 which represents the portion of that tax in excess of 27 cents per gallon must be deposited in the State Highway Fund and:~~

~~(a) Must be used exclusively for the construction and maintenance of public highways; and~~

~~(b) May not be used for any costs of administration or to purchase any equipment. (Deleted by amendment.)~~

Sec. 6. NRS 371.060 is hereby amended to read as follows:

371.060 1. Except as otherwise provided in subsection 2, each vehicle must be depreciated by the Department for the purposes of the annual governmental services tax according to the following schedule:

Age	Percentage of Initial Value
New	100 percent
1 year	~~[65]~~ 85 percent
2 years	~~[75]~~ 90 percent
3 years	~~[65]~~ 85 percent
4 years	~~[55]~~ 75 percent
5 years	~~[45]~~ 65 percent
6 years	~~[35]~~ 55 percent
7 years	~~[25]~~ 45 percent
8 years	~~[15]~~ 35 percent

9 years 25 percent
 10 years or more..... ~~{5}~~ 20 percent

2. Each bus, truck or truck tractor having a declared gross weight of 10,000 pounds or more and each trailer or semitrailer having an unladen weight of 4,000 pounds or more must be depreciated by the Department for the purposes of the annual governmental services tax according to the following schedule:

Age	Percentage of Initial Value
New	100 percent
1 year	~~{75}~~ 95 percent
2 years	~~{59}~~ 79 percent
3 years	~~{47}~~ 67 percent
4 years	~~{37}~~ 57 percent
5 years	~~{28}~~ 48 percent
6 years	~~{23}~~ 43 percent
7 years	~~{20}~~ 40 percent
8 years	~~{17}~~ 37 percent
9 years	~~{15}~~ 35 percent
10 years or more.....	~~{13}~~ 33 percent

3. Notwithstanding any other provision of this section, the minimum amount of the governmental services tax:

(a) On any trailer having an unladen weight of 1,000 pounds or less is \$3; and

(b) On any other vehicle is ~~{56}~~ \$25.

4. For the purposes of this section, a vehicle shall be deemed a "new" vehicle if the vehicle has never been registered with the Department and has never been registered with the appropriate agency of any other state, the District of Columbia, any territory or possession of the United States or any foreign state, province or country.

Sec. 7. NRS 371.230 is hereby amended to read as follows:

371.230 Except as otherwise provided in NRS 371.1035, 482.180 ~~for~~ and 482.181, and section 15 of this act, money collected by the Department for governmental services taxes and penalties pursuant to the provisions of this chapter must be deposited with the State Treasurer to the credit of the Motor Vehicle Fund.

Sec. 8. NRS 372.780 is hereby amended to read as follows:

372.780 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the State under this chapter must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments in the State Treasury to the credit of the Sales and Use Tax Account in the State General Fund.

3. *The State Controller, acting upon the collection data furnished by the Department, shall transfer monthly from the Sales and Use Tax Account in the State General Fund to the State Highway Fund the amount of the*

proceeds of the taxes imposed pursuant to this chapter and remitted to the Department during the preceding month attributable to sales by retailers who are classified by the Department, in accordance with the classifications defined pursuant to the North American Industry Classification System, as those definitions existed on July 1, 2007, under:

- (a) Classification 441, Motor Vehicle and Parts Dealers; and*
- (b) Classification 8111, Automotive Repair and Maintenance.*

Sec. 9. Chapter 408 of NRS is hereby amended by adding thereto the provisions set forth as sections 10 and 11 of this act.

Sec. 10. 1. *The Board shall adopt a plan for measuring the performance of the Department, which must include separate sets of performance measurements for each division of the Department and for the Department as a whole.*

2. *The Director shall, not later than December 31 of each year:*

(a) Prepare a report, based upon the relevant performance measurements adopted pursuant to subsection 1, on the level of achievement of each division of the Department and of the Department as a whole during the immediately preceding fiscal year. The report must include a discussion of:

(1) The goals and objectives of the Department, and the current status of the Department in relation to meeting those goals and objectives;

(2) Any applicable directives from the Board or Legislature since the most recent report prepared pursuant to this section;

(3) The scheduling, scope, cost and progress of any current or proposed highway projects;

(4) The sources, amount and expenditure of any funding received during the immediately preceding fiscal year;

(5) The rationale used to establish priorities for the completion of highway projects; and

(6) Any recommendations for amendments to the plan adopted pursuant to subsection 1.

(b) Submit the report to:

(1) The Board; and

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

Sec. 11. 1. *Before the Department submits a proposal for a highway project to the Board for approval, the Department shall prepare a written analysis of the costs and benefits of the project. The analysis must state, for each highway district in which the project is proposed:*

(a) The limits of the project;

(b) The period of analysis;

(c) The discount rate used in the analysis;

(d) The initial costs of the Department for the project, including any costs for design, engineering, the acquisition of land and construction;

(e) The future costs of the Department to preserve and maintain the project, discounted to present value;

(f) Any other costs of the Department for any other construction or any mitigation associated with the project;

(g) The costs to highway users for any loss of safety, delays in the time of travel and costs for the operation of vehicles that are associated with the project;

(h) The costs of any environmental impacts, including vehicle emissions and noise, that are associated with the project; and

(i) The value of the benefits of the project, including the value of any:

(I) Savings in the time of travel;

(II) Improvements to safety; and

(III) Savings in the cost of operating vehicles.

2. The analysis required by this section:

(a) Must include a discussion of any additional increases in costs that would result from any delays in the performance of any routine maintenance scheduled under the maintenance program of the Department;

(b) May include a discussion of:

(1) The costs of the project for any other persons and governmental agencies;

(2) The value of any other social, economic or environmental benefits or costs of the project; and

(3) Any costs or benefits which may result from the use of any alternative design, construction or financing practices; and

(c) Must be prepared in a format that allows for the comparison of proposed highway projects.

3. The analysis required by this section must be made available to the Board and the public when the agenda is posted for the meeting at which the proposal will be submitted to the Board for its approval.

4. As used in this section, "highway project" means a project that is expected to increase the capacity of the state highway system and cost at least \$25 million.

Sec. 12. NRS 408.131 is hereby amended to read as follows:

408.131 The Board shall:

1. Consider, at its meetings, all questions relating to the general policy of the Department and transact such business as properly comes before it.

2. Receive and consider, at such time as the Board selects, an annual report by the Director.

3. Except as otherwise provided ~~in NRS 408.203,~~ by specific statute, act for the Department in all matters relating to recommendations, reports and such other matters as the Board finds advisable to submit to the Legislature.

4. Maintain a record of all proceedings of the Board.

5. Execute or approve all instruments and documents in the name of the State or the Department necessary to carry out the provisions of this chapter.

6. Except as otherwise provided in NRS 408.389, delegate to the Director such authority as it deems necessary under the provisions of this chapter.

7. Act by resolution, vote or order entered in its records.

Sec. 13. NRS 408.235 is hereby amended to read as follows:

408.235 1. There is hereby created the State Highway Fund.

2. Except as otherwise provided ~~[in subsection 6 of NRS 482.180 and NRS 482.1805,]~~ by a specific statute, the proceeds from the imposition of any:

(a) License or registration fee and other charges with respect to the operation of any motor vehicle upon any public highway, city, town or county road, street, alley or highway in this State; and

(b) Excise tax on gasoline or other motor vehicle fuel,

↪ must be deposited in the State Highway Fund and must, except for *the* costs of administering the collection thereof, be used exclusively for *the* administration, construction, reconstruction, improvement and maintenance of highways as provided for in this chapter.

3. *The money transferred to the State Highway Fund pursuant to NRS 372.780:*

(a) *Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways as provided for in this chapter; and*

(b) *May not be used for any costs of administration or to purchase any equipment.*

4. The interest and income earned on the money in the State Highway Fund, after deducting any applicable charges, must be credited to the Fund.

~~{4.}~~ 5. Costs of administration for the collection of the proceeds for any license or registration fees and other charges with respect to the operation of any motor vehicle must be limited to a sum not to exceed 22 percent of the total proceeds so collected.

~~{5.}~~ 6. Costs of administration for the collection of any excise tax on gasoline or other motor vehicle fuel must be limited to a sum not to exceed 1 percent of the total proceeds so collected.

~~{6.}~~ 7. All bills and charges against the State Highway Fund for *the* administration, construction, reconstruction, improvement and maintenance of highways under the provisions of this chapter must be certified by the Director and must be presented to and examined by the State Board of Examiners. When allowed by the State Board of Examiners and upon being audited by the State Controller, the State Controller shall draw his warrant therefor upon the State Treasurer.

Sec. 14. NRS 408.235 is hereby amended to read as follows:

408.235 1. There is hereby created the State Highway Fund.

2. Except as otherwise provided by a specific statute, the proceeds from the imposition of any:

(a) License or registration fee and other charges with respect to the operation of any motor vehicle upon any public highway, city, town or county road, street, alley or highway in this State; and

(b) Excise tax on gasoline or other motor vehicle fuel,
➔ must be deposited in the State Highway Fund and must, except for the costs of administering the collection thereof, be used exclusively for the administration, construction, reconstruction, improvement and maintenance of highways as provided for in this chapter.

3. The money transferred to the State Highway Fund pursuant to NRS 372.780 ~~[-]~~ and section 15 of this act:

(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways as provided for in this chapter; and

(b) May not be used for any costs of administration or to purchase any equipment.

4. The interest and income earned on the money in the State Highway Fund, after deducting any applicable charges, must be credited to the Fund.

5. Costs of administration for the collection of the proceeds for any license or registration fees and other charges with respect to the operation of any motor vehicle must be limited to a sum not to exceed 22 percent of the total proceeds so collected.

6. Costs of administration for the collection of any excise tax on gasoline or other motor vehicle fuel must be limited to a sum not to exceed 1 percent of the total proceeds so collected.

7. All bills and charges against the State Highway Fund for the administration, construction, reconstruction, improvement and maintenance of highways under the provisions of this chapter must be certified by the Director and must be presented to and examined by the State Board of Examiners. When allowed by the State Board of Examiners and upon being audited by the State Controller, the State Controller shall draw his warrant therefor upon the State Treasurer.

Sec. 15. Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *After deducting the amount withheld by the Department and the amount credited to the Department pursuant to subsection 6 of NRS 482.180 and before carrying out the provisions of NRS 482.181 each month, the Department shall direct the State Controller to transfer to the State Highway Fund from the proceeds of the basic governmental services tax collected by the Department and its agents during the preceding month the amounts indicated pursuant to this section.*

2. *Except as otherwise provided in subsection 3, the amount required to be transferred pursuant to subsection 1 from the proceeds of the basic governmental services tax imposed on vehicles depreciated in accordance with:*

(a) *Subsection 1 of NRS 371.060 based upon an age of:*

- (1) One year, is a sum equal to 11 percent of those proceeds;
- (2) Two years, is a sum equal to 17 percent of those proceeds;
- (3) Three years, is a sum equal to 24 percent of those proceeds;
- (4) Four years, is a sum equal to 27 percent of those proceeds;
- (5) Five years, is a sum equal to 31 percent of those proceeds;
- (6) Six years, is a sum equal to 36 percent of those proceeds;
- (7) Seven years, is a sum equal to 44 percent of those proceeds;
- (8) Eight years, is a sum equal to 57 percent of those proceeds;
- (9) Nine years, is a sum equal to 80 percent of those proceeds; and
- (10) Ten years or more, is a sum equal to 75 percent of those proceeds;

and

(b) Subsection 2 of NRS 371.060 based upon an age of:

- (1) One year, is a sum equal to 21 percent of those proceeds;
- (2) Two years, is a sum equal to 25 percent of those proceeds;
- (3) Three years, is a sum equal to 30 percent of those proceeds;
- (4) Four years, is a sum equal to 35 percent of those proceeds;
- (5) Five years, is a sum equal to 42 percent of those proceeds;
- (6) Six years, is a sum equal to 47 percent of those proceeds;
- (7) Seven years, is a sum equal to 50 percent of those proceeds;
- (8) Eight years, is a sum equal to 54 percent of those proceeds;
- (9) Nine years, is a sum equal to 57 percent of those proceeds; and
- (10) Ten years or more, is a sum equal to 61 percent of those proceeds.

3. The amount required to be transferred pursuant to subsection 1 from the proceeds of the basic governmental services tax imposed on vehicles to which the minimum amount of that tax applies pursuant to paragraph (b) of subsection 3 of NRS 371.060 is a sum equal to 76 percent of those proceeds.

Sec. 16. NRS 482.180 is hereby amended to read as follows:

482.180 1. The Motor Vehicle Fund is hereby created as an agency fund. Except as otherwise provided in subsection 4 or by a specific statute, all money received or collected by the Department must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. The interest and income on the money in the Motor Vehicle Fund, after deducting any applicable charges, must be credited to the State Highway Fund.

3. Any check accepted by the Department in payment of the governmental services tax or any other fee required to be collected pursuant to this chapter must, if it is dishonored upon presentation for payment, be charged back against the Motor Vehicle Fund or the county to which the payment was credited pursuant to this section or NRS 482.181, in the proper proportion.

4. Except as otherwise provided in subsection 6, all money received or collected by the Department for the basic governmental services tax must be distributed in the manner set forth in NRS 482.181 ~~and~~ and section 15 of this act.

5. Money for the administration of the provisions of this chapter must be provided by direct legislative appropriation from the State Highway Fund or other legislative authorization, upon the presentation of budgets in the manner required by law. Out of the appropriation or authorization, the Department shall pay every item of expense.

6. The Department shall withhold 6 percent from the amount of the governmental services tax collected by the Department as a commission. From the amount of the governmental services tax collected by a county assessor, the State Controller shall credit 1 percent to the Department as a commission and remit 5 percent to the county for credit to its general fund as commission for the services of the county assessor. All money withheld by or credited to the Department pursuant to this subsection must be used only for the administration of this chapter as authorized by the Legislature pursuant to subsection 5.

7. When the requirements of this section and NRS 482.181 *and section 15 of this act* have been met, and when directed by the Department, the State Controller shall transfer monthly to the State Highway Fund any balance in the Motor Vehicle Fund.

8. If a statute requires that any money in the Motor Vehicle Fund be transferred to another fund or account, the Department shall direct the *State* Controller to transfer the money in accordance with the statute.

Sec. 17. NRS 482.181 is hereby amended to read as follows:

482.181 1. Except as otherwise provided in subsection 5, after deducting the amount withheld by the Department and the amount credited to the Department pursuant to subsection 6 of NRS 482.180, *and the amount transferred to the State Highway Fund pursuant to section 15 of this act*, the Department shall certify monthly to the State Board of Examiners the amount of the basic and supplemental governmental services taxes collected for each county by the Department and its agents during the preceding month, and that money must be distributed monthly as provided in this section.

2. Any supplemental governmental services tax collected for a county must be distributed only to the county, to be used as provided in NRS 371.045 and 371.047.

3. The distribution of the basic governmental services tax received or collected for each county must be made to the county school district within each county before any distribution is made to a local government, special district or enterprise district. For the purpose of calculating the amount of the basic governmental services tax to be distributed to the county school district, the taxes levied by each local government, special district and enterprise district are the product of its certified valuation, determined pursuant to subsection 2 of NRS 361.405, and its tax rate, established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1980, except that the tax rate for school districts, including the rate attributable to a district's debt service, is the rate established pursuant to NRS 361.455 for the fiscal year beginning on July 1, 1978, but if the rate attributable to a district's debt

service in any fiscal year is greater than its rate for the fiscal year beginning on July 1, 1978, the higher rate must be used to determine the amount attributable to debt service.

4. After making the distributions set forth in subsection 3, the remaining money received or collected for each county must be deposited in the Local Government Tax Distribution Account created by NRS 360.660 for distribution to local governments, special districts and enterprise districts within each county pursuant to the provisions of NRS 360.680 and 360.690.

5. An amount equal to any basic governmental services tax distributed to a redevelopment agency in the Fiscal Year 1987-1988 must continue to be distributed to that agency as long as it exists but must not be increased.

6. The Department shall make distributions of the basic governmental services tax directly to county school districts.

7. As used in this section:

(a) "Enterprise district" has the meaning ascribed to it in NRS 360.620.

(b) "Local government" has the meaning ascribed to it in NRS 360.640.

(c) "Received or collected for each county" means:

(1) For the basic governmental services tax collected on vehicles subject to the provisions of chapter 706 of NRS, the amount determined for each county based on the following percentages:

Carson City.....	1.07 percent	Lincoln.....	3.12 percent
Churchill.....	5.21 percent	Lyon.....	2.90 percent
Clark.....	22.54 percent	Mineral.....	2.40 percent
Douglas.....	2.52 percent	Nye.....	4.09 percent
Elko.....	13.31 percent	Pershing.....	7.00 percent
Esmeralda.....	2.52 percent	Storey.....	.19 percent
Eureka.....	3.10 percent	Washoe.....	12.24 percent
Humboldt.....	8.25 percent	White Pine.....	5.66 percent
Lander.....	3.88 percent		

(2) For all other basic and supplemental governmental services tax received or collected by the Department, the amount attributable to each county based on the county of registration of the vehicle for which the tax was paid.

(d) "Special district" has the meaning ascribed to it in NRS 360.650.

Sec. 18. NRS 482.260 is hereby amended to read as follows:

482.260 1. When registering a vehicle, the Department and its agents or a registered dealer shall:

(a) Collect the fees for license plates and registration as provided for in this chapter.

(b) Except as otherwise provided in NRS 482.321, collect the governmental services tax on the vehicle, as agent *for the State and* for the county where the applicant intends to base the vehicle for the period of registration, unless the vehicle is deemed to have no base.

(c) Collect the applicable taxes imposed pursuant to chapters 372, 374, 377 and 377A of NRS.

(d) Issue a certificate of registration.

(e) If the registration is performed by the Department, issue the regular license plate or plates.

(f) If the registration is performed by a registered dealer, provide information to the owner regarding the manner in which the regular license plate or plates will be made available to him.

2. Upon proof of ownership satisfactory to the Director, he shall cause to be issued a certificate of title as provided in this chapter.

3. Except as otherwise provided in NRS 371.070, every vehicle being registered for the first time in Nevada must be taxed for the purposes of the governmental services tax for a 12-month period.

4. The Department shall deduct and withhold 2 percent of the taxes collected pursuant to paragraph (c) of subsection 1 and remit the remainder to the Department of Taxation.

5. A registered dealer shall forward all fees and taxes collected for the registration of vehicles to the Department.

Sec. 19. NRS 482.280 is hereby amended to read as follows:

482.280 1. The registration of every vehicle expires at midnight on the day specified on the receipt of registration, unless the day specified falls on a Saturday, Sunday or legal holiday. If the day specified on the receipt of registration is a Saturday, Sunday or legal holiday, the registration of the vehicle expires at midnight on the next judicial day. The Department shall mail to each holder of a certificate of registration an application for renewal of registration for the following period of registration. The applications must be mailed by the Department in sufficient time to allow all applicants to mail the applications to the Department and to receive new certificates of registration and license plates, stickers, tabs or other suitable devices by mail before the expiration of their registrations. An applicant may present or submit the application to any agent or office of the Department.

2. An application:

(a) Mailed or presented to the Department or to a county assessor pursuant to the provisions of this section;

(b) Submitted to the Department pursuant to NRS 482.294; or

(c) Presented to an authorized inspection station or authorized station pursuant to the provisions of NRS 482.281,

↪ must include, if required, evidence of compliance with standards for *the* control of emissions.

3. The Department shall insert in each application mailed pursuant to subsection 1:

(a) The amount of the governmental services tax to be collected ~~for the county~~ pursuant to the provisions of NRS 482.260.

(b) The amount set forth in a notice of nonpayment filed with the Department by a local authority pursuant to NRS 484.444.

(c) A statement which informs the applicant that, pursuant to NRS 485.185, he is legally required to maintain insurance during the period in which the motor vehicle is registered.

4. An owner who has made proper application for renewal of registration before the expiration of the current registration but who has not received the license plate or plates or card of registration for the ensuing period of registration is entitled to operate or permit the operation of that vehicle upon the highways upon displaying thereon the license plate or plates issued for the preceding period of registration for such a time as may be prescribed by the Department as it may find necessary for the issuance of the new plate or plates or card of registration.

Sec. 20. NRS 483.410 is hereby amended to read as follows:

483.410 1. Except as otherwise provided in subsection 6 and NRS 483.417, for every driver's license, including a motorcycle driver's license, issued and service performed, the following fees must be charged:

An original or renewal license issued to a person	
65 years of age or older	~~[\$13.50]~~ \$33.50
An original or renewal license issued to any person	
less than 65 years of age	~~[\$18.50]~~ 38.50
Reinstatement of a license after suspension, revocation or cancellation, except a revocation for a violation of NRS 484.379, 484.3795 or 484.37955, or pursuant to NRS 484.384 and 484.385	~~[40.00]~~ 60.00
Reinstatement of a license after revocation for a violation of NRS 484.379, 484.3795 or 484.37955, or pursuant to NRS 484.384 and 484.385	~~[65.00]~~ 85.00
A new photograph, change of name, change of other information, except address, or any combination	5.00
A duplicate license	14.00

2. For every motorcycle endorsement to a driver's license, a fee of \$5 must be charged.

3. If no other change is requested or required, the Department shall not charge a fee to convert the number of a license from the licensee's social security number, or a number that was formulated by using the licensee's social security number as a basis for the number, to a unique number that is not based on the licensee's social security number.

4. Except as otherwise provided in NRS 483.417, the increase in fees authorized by NRS 483.347 and the fees charged pursuant to NRS 483.415 must be paid in addition to the fees charged pursuant to subsections 1 and 2.

5. A penalty of \$10 must be paid by each person renewing his license after it has expired for a period of 30 days or more as provided in NRS 483.386 unless he is exempt pursuant to that section.

6. The Department may not charge a fee for the reinstatement of a driver's license that has been:

- (a) Voluntarily surrendered for medical reasons; or
- (b) Cancelled pursuant to NRS 483.310.

7. All fees and penalties are payable to the Administrator at the time a license or a renewal license is issued.

8. Except as otherwise provided in NRS 483.340, subsection 3 of NRS 483.3485, NRS 483.415 and 483.840, and subsection 3 of NRS 483.863, all money collected by the Department pursuant to this chapter must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

Sec. 21. NRS 483.820 is hereby amended to read as follows:

483.820 1. A person who applies for an identification card in accordance with the provisions of NRS 483.810 to 483.890, inclusive, and who is not ineligible to receive an identification card pursuant to NRS 483.861, is entitled to receive an identification card if he is:

(a) A resident of this State and is 10 years of age or older and does not hold a valid driver's license or identification card from any state or jurisdiction; or

(b) A seasonal resident who does not hold a valid Nevada driver's license.

2. Except as otherwise provided in NRS 483.825, the Department shall charge and collect the following fees for the issuance of an original, duplicate or changed identification card:

An original or duplicate identification card issued	
to a person 65 years of age or older.....	~~[\$4]~~ \$24
An original or duplicate identification card issued	
to a person under 18 years of age.....	~~[3]~~ 23
A renewal of an identification card for a person	
under 18 years of age.....	~~[3]~~ 23
An original or duplicate identification card issued	
to any other person.....	~~[9]~~ 29
A renewal of an identification card for any person	
at least 18 years of age, but less than 65 years	
of age	~~[9]~~ 29
A new photograph or change of name, or both	4

3. The Department shall not charge a fee for:

(a) An identification card issued to a person who has voluntarily surrendered his driver's license pursuant to NRS 483.420; or

(b) A renewal of an identification card for a person 65 years of age or older.

4. Except as otherwise provided in NRS 483.825, the increase in fees authorized in NRS 483.347 must be paid in addition to the fees charged pursuant to this section.

5. As used in this section, "photograph" has the meaning ascribed to it in NRS 483.125.

Sec. 22. NRS 483.910 is hereby amended to read as follows:

483.910 1. The Department shall charge and collect the following fees:

For an original commercial driver's license which requires the Department to administer a driving skills test.....	~~[\$84]~~ \$104
For an original commercial driver's license which does not require the Department to administer a driving skills test.....	~~[54]~~ 74
For renewal of a commercial driver's license which requires the Department to administer a driving skills test.....	~~[84]~~ 104
For renewal of a commercial driver's license which does not require the Department to administer a driving skills test.....	~~[54]~~ \$74
For reinstatement of a commercial driver's license after suspension or revocation of the license for a violation of NRS 484.379, 484.3795 or 484.37955, or pursuant to NRS 484.384 and 484.385, or pursuant to 49 C.F.R. § 383.51(b)(2)(i) or (ii).....	~~[84]~~ 104
For reinstatement of a commercial driver's license after suspension, revocation, cancellation or disqualification of the license, except a suspension or revocation for a violation of NRS 484.379, 484.3795 or 484.37955, or pursuant to NRS 484.384 and 484.385, or pursuant to 49 C.F.R. § 383.51(b)(2)(i) or (ii).....	~~[54]~~ 74
For the transfer of a commercial driver's license from another jurisdiction, which requires the Department to administer a driving skills test.....	~~[84]~~ 104
For the transfer of a commercial driver's license from another jurisdiction, which does not require the Department to administer a driving skills test.....	~~[54]~~ 74
For a duplicate commercial driver's license	19
For any change of information on a commercial driver's license	9
For each endorsement added after the issuance of an original commercial driver's license	14
For the administration of a driving skills test to change any information on, or add an endorsement to, an existing commercial driver's license	30

2. The Department shall charge and collect an annual fee of \$555 from each person who is authorized by the Department to administer a driving skills test pursuant to NRS 483.912.

3. An additional charge of \$3 must be charged for each knowledge test administered to a person who has twice failed the test.

4. An additional charge of \$25 must be charged for each driving skills test administered to a person who has twice failed the test.

5. The increase in fees authorized in NRS 483.347 must be paid in addition to the fees charged pursuant to this section.

6. The Department shall charge an applicant for a hazardous materials endorsement an additional fee for the processing of fingerprints. The Department shall establish the additional fee by regulation, except that the amount of the additional fee must not exceed the sum of the amount charged by the Central Repository for Nevada Records of Criminal History and each applicable federal agency to process the fingerprints for a background check of the applicant in accordance with Section 1012 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, 49 U.S.C. § 5103a.

Sec. 23. 1. The Director of the Department of Transportation shall, each calendar quarter, prepare a report to supplement the annual reports required pursuant to section 10 of this act, and submit the quarterly report to the Board of Directors of the Department of Transportation and the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission. The quarterly report must contain the following information with respect to all the "super and mega projects" and other highway projects that the Blue Ribbon Task Force, as created by the Board of Directors of the Nevada Department of Transportation, identified in its report dated December 5, 2006:

(a) For each of those projects:

(1) The amount of funding expended on the project.

(2) The timeline for the completion of the project.

(3) Specific information regarding any delays in the project as a result of any variances from the Department's projections of scheduling and costs.

(4) The status of:

(I) The definition of the project.

(II) The preliminary engineering for the project.

(III) The environmental documentation for the project.

(IV) The acquisition of required rights-of-way for the project.

(V) The date of advertisement for bids on the project.

(VI) The date of operational completion of the project.

(b) The total number of those projects that have been completed and, for each completed project:

(1) Whether the project was completed early or on time.

(2) Whether the project remained within its planned scope.

(3) Whether the project was completed for less than or for the amount of its budgeted expenses.

(4) Any specific measures of transportation improvement resulting from the project.

2. The Director shall cause a copy of each report prepared pursuant to this section to be posted on the Internet website of the Department when the report is submitted pursuant to subsection 1.

Sec. 24. 1. The Interim Finance Committee shall appoint a subcommittee to oversee the activities and performance of the Nevada Department of Transportation.

2. The subcommittee must:

(a) Be composed of:

(1) Two members of the Assembly Standing Committee on Ways and Means during the 74th Legislative Session; and

(2) Two members of the Senate Standing Committee on Finance during the 74th Legislative Session.

(b) Select a chairman and vice chairman from among its members.

(c) Meet at least once between every two meetings of the Interim Finance Committee and report its activities and any findings at each meeting of the Interim Finance Committee.

3. The Director of the Legislative Counsel Bureau shall provide such staff and other support as is necessary for the subcommittee to perform its duty.

4. The Nevada Department of Transportation shall cooperate with the subcommittee and provide such information and assistance as the subcommittee requests.

Sec. 25. The amendatory provisions of:

1. ~~Sections 2 and 4 of this act do not affect the amount of any taxes due for any period ending on or before June 30, 2007.~~

~~2.~~ Sections 6, 7, 15, 16 and 17 of this act do not affect the amount of any governmental services taxes due pursuant to NRS 371.110 before January 1, 2008, or apply to the disposition of the proceeds of any governmental services taxes due before that date.

~~3.~~ 2. Section 8 of this act do not apply to the disposition of the proceeds of any sales or use taxes remitted to the Department of Taxation before July 1, 2007.

Sec. 26. 1. This section and sections 1 to 5, inclusive, 8 to 13, inclusive, and 20 to 25, inclusive, of this act become effective on July 1, 2007.

2. Sections 6, 7 and 14 to 19, inclusive, of this act become effective on December 1, 2007.

3. Section 24 of this act expires by limitation on December 31, 2008.

4. Section 23 of this act expires by limitation on December 31, 2015.

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 325.

Bill read second time.

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

Amendment No. 414.

"SUMMARY—Makes various changes concerning the English language. (BDR 19-760)"

"AN ACT relating to governmental administration; designating English as the official language of the State of Nevada; requiring certain proceedings ~~[,]~~ *and* records ~~[and publications]~~ of this State to be in English; ~~[prohibiting certain employment discrimination by governmental officers and agencies; requiring state agencies to record certain expenditures made to provide services in a language other than English;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill designates English as the official language of the State of Nevada and, with limited exceptions, requires that all official proceedings of the State be conducted in English ~~[,]~~ *and* requires all official records of the State to be prepared, stored and made available in English. ~~[,]~~ *and requires all official publications of the State to be printed in English.*

~~Existing law prohibits employment discrimination by state and local governmental officers and agencies based on race, creed, color, national origin, sex, sexual orientation, age, political affiliation or disability except when based on a bona fide occupational qualification. (NRS 281.370) Section 2 of this bill adds to this list of prohibited bases of employment discrimination the inability of a person to converse in a language other than English.~~

~~Section 3 of this bill requires state agencies to record expenditures made to provide services in languages other than English.]~~

WHEREAS, English is the common language of the people of the United States of America and the State of Nevada and should be preserved, protected and strengthened; and

WHEREAS, English is the most widely used language in the areas of finance, trade, technology, diplomacy and entertainment, and is the living library of the last 100 years of scientific and technological advances; and

WHEREAS, There are more persons who speak English as a second language in the world than there are native speakers of English, and the numerous schools that teach English around the world demonstrate that English is soon to become the prevalent language used throughout the world; and

WHEREAS, It is universally accepted that a common language promotes unity and fosters better communication; and

WHEREAS, Knowledge of the different languages existing in today's world enhances competitiveness and growth in world trade and promotes economic expansion; and

WHEREAS, A skilled labor force is crucial to the competitiveness of the State of Nevada in today's national and global economy, and a knowledge of both English and foreign languages enhances communication and diplomatic efforts by fostering greater communication and understanding between nations and can promote a greater understanding between different ethnic and racial groups within the United States; now, therefore,

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

Section 1. Chapter 235 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Legislature hereby:

(a) Pledges that it:

(1) Will not enact any law which diminishes or ignores the role of English as the common language of this State; and

(2) Will take all steps necessary to ensure that English is preserved and enhanced as the common language of this State.

(b) Encourages other state officials to take appropriate steps to ensure that English is preserved and enhanced as the common language of this State.

(c) Recognizes:

(1) The importance of English as the unifying language of the United States and the importance of speaking English fluently to succeed in American society;

(2) That a command of English is a critical component of the success and productivity of the children in this State and should be encouraged at all ages; and

(3) That a skilled labor force is crucial to this State's competitiveness in a global economy and the ability to speak one or more languages in addition to English is a significant skill.

(d) Supports educational programs designed to teach English as well as other languages.

(e) Encourages the residents of this State:

(1) To master English as well as other languages; and

(2) To take advantage of all educational opportunities to realize their potential in the mastery of English as well as other languages.

2. English is hereby designated as the official language of the State of Nevada.

~~2-1~~ 3. Except as otherwise provided in subsection ~~3-1~~ 4:

(a) All official proceedings of this State must be conducted in the English language.

(b) All official records of this State must be prepared, stored and made available in the English language.

~~1(c) All official publications of this State must be printed in the English language.~~

~~3-1~~ 4. The provisions of subsection ~~2-1~~ 3 do not apply to:

- (a) *State employees when conducting official state business orally.*
- (b) *Classes that teach students a language other than English.*
- (c) *Classes that teach students whose proficiency in the English language is limited.*
- (d) *Situations in which the exclusive use of the English language would interfere with the functions and requirements of the judicial system of this State.*
- (e) *Situations in which the exclusive use of the English language would interfere with public health or safety or the provision of emergency services.*
- (f) *The promotion of international trade or tourism by an officer, employee or agent of this State.*

~~4.4~~ 5. *Notwithstanding the provisions of any other specific statute:*

(a) *No court of this State has jurisdiction to hear a claim against this State that is based solely on the failure of this State to provide copies of statutes, regulations, reports, forms or other documents in a language other than English.*

(b) *Neither this State nor an officer, employee or agent of this State is liable, civilly or criminally, for an act or omission committed to carry out the provisions of subsection ~~2.1~~ 3.*

Sec. 2. ~~[NRS 281.370 is hereby amended to read as follows:~~

~~281.370—1.—All personnel actions taken by state, county or municipal departments, housing authorities, agencies, boards or appointing officers thereof must be based solely on merit and fitness.~~

~~2.—State, county or municipal departments, housing authorities, agencies, boards or appointing officers thereof shall not refuse to hire a person, discharge or bar any person from employment or discriminate against any person in compensation or in other terms or conditions of employment because of his race, creed, color, national origin, sex, sexual orientation, age, inability to converse in a language other than English, political affiliation or disability, except when based upon a bona fide occupational qualification.~~

~~3.—As used in this section:~~

~~(a) "Disability" means, with respect to a person:~~

~~(1) A physical or mental impairment that substantially limits one or more of the major life activities of the person;~~

~~(2) A record of such an impairment; or~~

~~(3) Being regarded as having such an impairment.~~

~~(b) "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality. (Deleted by amendment.)~~

Sec. 3. ~~[Chapter 253 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1.—A state agency shall record each expenditure made by the state agency to provide services in a language other than English, including, without limitation, the preparation, translation, printing and recording of documents,~~

~~papers and brochures. Such expenditures must be set forth separately in the budget estimates of the state agency.~~

~~2. As used in this section, "state agency" means an agency, bureau, board, commission, department, division or any other unit of the Executive, Judicial or Legislative Branch of State Government.] (Deleted by amendment.)~~

Senator Beers moved the adoption of the amendment.

Remarks by Senator Beers.

Senator Coffin requested that Senator Beers's remarks be entered in the Journal.

SENATOR BEERS:

This is the compromise language that emerged from the committee out of which this legislation moved unanimously. It makes a clear statement of legislative intent. It takes away sections 2 and 3 of the original bill. The committee felt these sections were onerous and expensive.

Amendment adopted.

The following amendment was proposed by Senator Coffin:

Amendment No. 491.

"SUMMARY—Makes various changes concerning ~~[the English language]~~ governmental administration. (BDR 19-760)"

"AN ACT relating to governmental administration; designating English as the official language of the State of Nevada; requiring certain proceedings, records and publications of this State to be in English; prohibiting certain employment discrimination by governmental officers and agencies; requiring state agencies to record certain expenditures made to provide services in a language other than English; requiring certain employers to verify and maintain documentation of the legal work status of newly hired employees for purposes of compliance with federal law; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill designates English as the official language of the State of Nevada and, with limited exceptions, requires that all official proceedings of the State be conducted in English, requires all official records of the State to be prepared, stored and made available in English, and requires all official publications of the State to be printed in English.

Existing law prohibits employment discrimination by state and local governmental officers and agencies based on race, creed, color, national origin, sex, sexual orientation, age, political affiliation or disability except when based on a bona fide occupational qualification. (NRS 281.370) Section 2 of this bill adds to this list of prohibited bases of employment discrimination the inability of a person to converse in a language other than English.

Section 3 of this bill requires state agencies to record expenditures made to provide services in languages other than English.

Section 4 of this bill requires employers who have five or more employees to verify and maintain documentation of the legal work status of employees hired on or after October 1, 2007, for purposes of federal law. (8 U.S.C. § 1324a) Section 4 charges the Labor Commissioner with enforcement of this requirement.

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

Section 1. Chapter 235 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *English is hereby designated as the official language of the State of Nevada.*

2. *Except as otherwise provided in subsection 3:*

(a) *All official proceedings of this State must be conducted in the English language.*

(b) *All official records of this State must be prepared, stored and made available in the English language.*

(c) *All official publications of this State must be printed in the English language.*

3. *The provisions of subsection 2 do not apply to:*

(a) *State employees when conducting official state business orally.*

(b) *Classes that teach students a language other than English.*

(c) *Classes that teach students whose proficiency in the English language is limited.*

(d) *Situations in which the exclusive use of the English language would interfere with the functions and requirements of the judicial system of this State.*

(e) *Situations in which the exclusive use of the English language would interfere with public health or safety or the provision of emergency services.*

(f) *The promotion of international trade or tourism by an officer, employee or agent of this State.*

4. *Notwithstanding the provisions of any other specific statute:*

(a) *No court of this State has jurisdiction to hear a claim against this State that is based solely on the failure of this State to provide copies of statutes, regulations, reports, forms or other documents in a language other than English.*

(b) *Neither this State nor an officer, employee or agent of this State is liable, civilly or criminally, for an act or omission committed to carry out the provisions of subsection 2.*

Sec. 2. NRS 281.370 is hereby amended to read as follows:

281.370 1. All personnel actions taken by state, county or municipal departments, housing authorities, agencies, boards or appointing officers thereof must be based solely on merit and fitness.

2. State, county or municipal departments, housing authorities, agencies, boards or appointing officers thereof shall not refuse to hire a person, discharge or bar any person from employment or discriminate against any

person in compensation or in other terms or conditions of employment because of his race, creed, color, national origin, sex, sexual orientation, age, *inability to converse in a language other than English*, political affiliation or disability, except when based upon a bona fide occupational qualification.

3. As used in this section:

(a) "Disability" means, with respect to a person:

(1) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(2) A record of such an impairment; or

(3) Being regarded as having such an impairment.

(b) "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 3. Chapter 353 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A state agency shall record each expenditure made by the state agency to provide services in a language other than English, including, without limitation, the preparation, translation, printing and recording of documents, papers and brochures. Such expenditures must be set forth separately in the budget estimates of the state agency.*

2. *As used in this section, "state agency" means an agency, bureau, board, commission, department, division or any other unit of the Executive, Judicial or Legislative Branch of State Government.*

Sec. 4. Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Within 20 days after hiring an employee, an employer who has five or more employees shall affirm in writing that the employer:

(a) Has examined the legal work status of the newly hired employee and has retained copies of the documents required by 8 U.S.C. § 1324a;

(b) Has not altered or falsified the documents provided by the employee as identification; and

(c) Has not knowingly hired an unauthorized alien.

2. The employer shall maintain a written or electronic copy of the affirmation and of the documents required by 8 U.S.C. § 1324a for the term of employment of each employee.

3. Upon the request of the Labor Commissioner, an employer shall submit documentation to the Labor Commissioner which demonstrates that the employer is in compliance with the requirements for verifying employment specified in 8 U.S.C. § 1324a(b) and has complied with subsections 1 and 2. The Labor Commissioner may conduct random audits of employers to obtain such documentation. If the Labor Commissioner has reason to believe that an employer has not complied with the requirements for verifying employment specified in 8 U.S.C. § 1324a(b) or with subsection 1 or 2, the Labor Commissioner shall request the employer to submit the documentation.

4. If an employer, with reckless disregard, fails to submit documentation required by this section or, with reckless disregard, submits false or fraudulent documentation, the Labor Commissioner may impose against the employer an administrative penalty of not more than \$5,000 for the first violation and an administrative penalty of not more than \$25,000 for the second and each subsequent violation. All money collected by the Labor Commissioner as an administrative penalty pursuant to this subsection must be deposited in the State General Fund.

5. As used in this section, "unauthorized alien" has the meaning ascribed to it in 8 U.S.C. § 1324a(h)(3).

Sec. 5. The provisions of section 4 of this act apply to employees hired on or after October 1, 2007.

Senator Coffin moved the adoption of the amendment.

Remarks by Senators Coffin and Beers.

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

SENATOR COFFIN:

Thank you, Mr. President. I supported the first amendment to this bill, Amendment No. 414. The language in the amendment is good. It is dignified. In a sense, it helps to defuse and, perhaps, officially say to the public that we are not trying to be hostile to our visitors, to our transients, even to those who are not here legally. That is one of the things that made me decide to request this amendment. In making a declaration that English is our official language, it really boils down to dancing around the real problem which is illegal immigration.

We have had a lot of talk during this Session about aliens getting scholarships and qualifying or not qualifying for various benefits. The amendment really goes to the heart of the problem and what the public is upset about, why ordinarily nice people become radicalized and will frequently say things like, "Wetbacks are taking over," or "greasers" and "beaners" and "Canadians are swarming our borders." The reason they are here is to work. We feel that the people who hire them, who bring them here are the ones causing this problem.

Twenty-one years ago, the federal government passed a law to try to do just what this bill proposes to do. For 21 years, this law has not been enforced. It is time for the State of Nevada to face it directly, talk to our peers, our colleagues, the people we see each day, those who build our homes and roads with the labor of these individuals, many of them knowing those folks are not here legally. They know, full well, that every time they employ someone, they are bringing a family here who is going to be a burden on our school system, consequently creating a serious problem of friction between ordinarily good people. We have to recognize the problem. People are hiring them. They are bringing them up here with the lure of money, and we have to do something about it.

I am proposing that you adopt this amendment, join with me, make it a better bill and confront the issue straight on. People who are here illegally should not be enticed into coming here. The large employer is the one who this bill is directed at. It would not try to catch the Salvadoran nanny or the lawn mower. It is only for those with five employees or more. This is long overdue. It is time we did something about it. Let us see if we can walk the talk we have been making. Thank you.

SENATOR BEERS:

I oppose this amendment. It modifies a separate chapter in a separate title and would have gone to a separate committee if it were introduced as a separate bill. It is not germane to this bill. At this late hour, with the inability of the legislative process to give this the proper amount of attention and allow the proper amount of input from the people affected, I would have to oppose this amendment.

Motion lost on a division of the house.

The following amendment was proposed by Senator Care:

Amendment No. 499.

"SUMMARY—Makes various changes concerning ~~[the English language]~~ governmental administration. (BDR 19-760)"

"AN ACT relating to governmental administration; designating English as the official language of the State of Nevada; requiring certain proceedings, records and publications of this State to be in English; restricting local governments from enacting or enforcing certain local laws which regulate certain conduct; prohibiting certain employment discrimination by governmental officers and agencies; requiring state agencies to record certain expenditures made to provide services in a language other than English; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill designates English as the official language of the State of Nevada and, with limited exceptions, requires that all official proceedings of the State be conducted in English, requires all official records of the State to be prepared, stored and made available in English, and requires all official publications of the State to be printed in English.

Existing law prohibits employment discrimination by state and local governmental officers and agencies based on race, creed, color, national origin, sex, sexual orientation, age, political affiliation or disability except when based on a bona fide occupational qualification. (NRS 281.370) Section ~~2~~ 8 of this bill adds to this list of prohibited bases of employment discrimination the inability of a person to converse in a language other than English.

Section ~~3~~ 9 of this bill requires state agencies to record expenditures made to provide services in languages other than English.

Under existing law, local governments may enact and enforce local ordinances and regulations which regulate the conduct of persons on public sidewalks. (NRS 244.357, 266.275, 266.277, 268.815, 269.185; Caliente City Charter §§ 2.200, 2.210; Carlin City Charter §§ 2.210, 2.230; Carson City Charter §§ 2.130, 2.230, 2.250; Elko City Charter §§ 2.250, 2.260; Henderson City Charter §§ 2.200, 2.210; Las Vegas City Charter §§ 2.220, 2.230; North Las Vegas City Charter §§ 2.200, 2.210; Reno City Charter § 2.110; Sparks City Charter § 2.090; Wells City Charter §§ 2.210, 2.230; Yerington City Charter §§ 2.200, 2.210)

Section 2 of this bill prohibits a local government from enacting or enforcing an ordinance or regulation which prohibits a person on a public sidewalk from distributing written materials, conducting a peaceful demonstration or holding, carrying or displaying a sign, if the conduct is done in a manner that does not pose a substantial threat to the safety or free flow of pedestrians or vehicles. Section 2 also requires that if a local government enacts an ordinance or regulation that regulates such conduct, the ordinance or regulation must apply uniformly and must not discriminate

on the basis of content or the viewpoint, beliefs or purpose of the person engaging in the conduct. However, section 2 provides that a local government is not prohibited from enacting or enforcing an ordinance or regulation that restricts, limits or regulates speech or conduct that is not constitutionally protected. Sections 3-7 and 10-30 of this bill amend various statutes and city charters to reflect this revision of a local government's regulatory powers over public sidewalks.

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

Section 1. Chapter 235 of NRS is hereby amended by adding thereto a new section to read as follows:

1. English is hereby designated as the official language of the State of Nevada.

2. Except as otherwise provided in subsection 3:

(a) All official proceedings of this State must be conducted in the English language.

(b) All official records of this State must be prepared, stored and made available in the English language.

(c) All official publications of this State must be printed in the English language.

3. The provisions of subsection 2 do not apply to:

(a) State employees when conducting official state business orally.

(b) Classes that teach students a language other than English.

(c) Classes that teach students whose proficiency in the English language is limited.

(d) Situations in which the exclusive use of the English language would interfere with the functions and requirements of the judicial system of this State.

(e) Situations in which the exclusive use of the English language would interfere with public health or safety or the provision of emergency services.

(f) The promotion of international trade or tourism by an officer, employee or agent of this State.

4. Notwithstanding the provisions of any other specific statute:

(a) No court of this State has jurisdiction to hear a claim against this State that is based solely on the failure of this State to provide copies of statutes, regulations, reports, forms or other documents in a language other than English.

(b) Neither this State nor an officer, employee or agent of this State is liable, civilly or criminally, for an act or omission committed to carry out the provisions of subsection 2.

Sec. 2. Chapter 237 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A local government shall not enact or enforce any ordinance or regulation which prohibits a person who is on a public sidewalk from distributing written materials, conducting peaceful demonstrations or

holding, carrying or displaying a sign on or about the person's body or similar lawful conduct if the conduct is done in such a manner as to not pose a substantial threat to the safety or free flow of pedestrians or vehicles. If a local government enacts an ordinance or regulation that regulates such conduct, the ordinance or regulation must apply uniformly and must not discriminate on the basis of content or the viewpoint, beliefs or purpose of the person engaging in the conduct.

2. The provisions of subsection 1 must not be construed to prohibit a local government from enacting or enforcing an ordinance or regulation that restricts, limits or regulates speech or conduct that is not protected by the First Amendment to the United States Constitution or Section 9 of Article 1 of the Nevada Constitution.

3. For the purposes of subsection 1, a sign is held, carried or displayed "on or about a person's body" if the sign is held, carried or displayed on the person's body or within reasonably close proximity to the person's body.

4. As used in this section:

(a) "Public sidewalk" means that portion of a highway or roadway which lies between the curb lines or lateral lines of the highway or roadway and the adjacent property lines and which is designed or intended for the use of pedestrians. The term includes, without limitation, private property upon which a limited easement of public access exists. The term does not include a pedestrian walkway, skyway, overpass or underpass which is only accessible through private property.

(b) "Sign" means any structure, device or display, including, without limitation, a banner, flag, bulletin, notice, placard or poster, which:

(1) Is designed, intended or used to express ideas, opinions, viewpoints or messages or to advertise, inform or call attention to any thing, person, business, activity or place; and

(2) Is capable of being held, carried or displayed by a person on the person's body or within reasonably close proximity to the person's body.

Sec. 3. NRS 244.357 is hereby amended to read as follows:

244.357 1. Each board of county commissioners may enact and enforce such local police and sanitary ordinances and regulations as are not in conflict with the general laws and regulations of the State of Nevada, but may not enact any ordinance or regulation fixing a speed limit on any United States highway or any highway or road which is constructed, reconstructed, improved or maintained by the Department of Transportation as provided in chapter 408 of NRS.

2. Such police and sanitary ordinances and regulations may be enacted to apply throughout an entire county or, where the subject matter makes it appropriate and reasonable, may be enacted to govern only a limited area within the county which must be specified in the ordinance.

3. Each board of county commissioners may enact and enforce loitering and prowling ordinances.

4. Subject to the restriction of subsection 1, each board of county commissioners may, by ordinance, regulate:

(a) ~~[(All)]~~ Except as otherwise provided in NRS 707.375 and section 2 of this act, all vehicular, pedestrian and other traffic within the unincorporated area of the county and provide generally for the public safety on public streets, publicly owned parking lots, parking areas to which the public is invited and the public rights-of-way.

(b) The length of time for which vehicles may be parked upon the public streets and publicly owned parking lots.

Sec. 4. NRS 266.275 is hereby amended to read as follows:

266.275 ~~[(The)]~~ Except as otherwise provided in section 2 of this act, the city council may:

1. Lay out, maintain, alter, improve or vacate all public rights-of-way in the city.

2. Regulate the use of public parks, buildings, grounds and rights-of-way and prevent the unlawful use thereof.

3. Require landowners to keep the adjacent streets, sidewalks and public parks, buildings and grounds free from encroachments or obstructions.

4. Regulate and prevent in all public places:

(a) The distribution and exhibition of handbills ~~[(or)]~~ or signs.

(b) Any practice tending to annoy persons passing in such public places.

(c) Public demonstrations and processions.

5. Prevent riots or any act tending to promote riots in any public place.

Sec. 5. NRS 266.277 is hereby amended to read as follows:

266.277 The city council may, by ordinance, regulate:

1. Except as otherwise provided in NRS 707.375 ~~[(or)]~~ and section 2 of this act, all vehicular, pedestrian and other traffic within the city and provide generally for the public safety on public streets, publicly owned parking lots, parking areas to which the public is invited and public rights-of-way.

2. The length of time for which vehicles may be parked upon the public streets and publicly owned parking lots.

Sec. 6. NRS 268.815 is hereby amended to read as follows:

268.815 Except as otherwise provided in section 2 of this act:

1. A pedestrian mall is exempt from any provision of law providing standards or specifications for the composition, construction, layout, size and any other component of sidewalks, streets or other thoroughfares and any regulations adopted pursuant thereto.

2. The governing body may include in an ordinance creating a pedestrian mall or otherwise adopt design or architectural standards, safety standards and other provisions for the regulation of the area included in a pedestrian mall that are different than those adopted for other areas of the city.

Sec. 7. NRS 269.185 is hereby amended to read as follows:

269.185 1. Except as otherwise provided in NRS 707.375 ~~[(or)]~~ and section 2 of this act, in addition to the powers and jurisdiction conferred upon

the town boards or boards of county commissioners by this chapter, such boards may:

(a) Regulate traffic upon the streets and alleys of towns or cities governed by such boards pursuant to this chapter.

(b) Regulate the speed, parking, stopping, turning and operation of all motor vehicles and other vehicles using the streets and alleys.

(c) Pass and adopt all ordinances, rules and regulations, and do and perform all acts and things necessary for the execution of the powers and jurisdiction conferred by this section.

2. The town board or board of county commissioners shall cause to be displayed, in each school zone and school crossing zone where the county has posted a speed limit, signs or other devices designating the times during which the speed limit in the zone is to apply.

~~[Sec. 2.]~~ Sec. 8. NRS 281.370 is hereby amended to read as follows:

281.370 1. All personnel actions taken by state, county or municipal departments, housing authorities, agencies, boards or appointing officers thereof must be based solely on merit and fitness.

2. State, county or municipal departments, housing authorities, agencies, boards or appointing officers thereof shall not refuse to hire a person, discharge or bar any person from employment or discriminate against any person in compensation or in other terms or conditions of employment because of his race, creed, color, national origin, sex, sexual orientation, age, *inability to converse in a language other than English*, political affiliation or disability, except when based upon a bona fide occupational qualification.

3. As used in this section:

(a) "Disability" means, with respect to a person:

(1) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(2) A record of such an impairment; or

(3) Being regarded as having such an impairment.

(b) "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

~~[Sec. 3.]~~ Sec. 9. Chapter 353 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A state agency shall record each expenditure made by the state agency to provide services in a language other than English, including, without limitation, the preparation, translation, printing and recording of documents, papers and brochures. Such expenditures must be set forth separately in the budget estimates of the state agency.*

2. *As used in this section, "state agency" means an agency, bureau, board, commission, department, division or any other unit of the Executive, Judicial or Legislative Branch of State Government.*

Sec. 10. Section 2.200 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, at page 61, is hereby amended to read

as follows:

Sec. 2.200 Powers of City Council: Rights-of-way, parks, public buildings and grounds and other public places. ~~[(The)]~~ Except as otherwise provided in section 2 of this act, the City Council may:

1. Lay out, maintain, alter, improve or vacate all public rights-of-way in the City.
2. Regulate the use of public parks, buildings, grounds and rights-of-way and prevent the unlawful use thereof.
3. Require landowners to keep the adjacent streets, sidewalks and public parks, buildings and grounds free from encroachments or obstructions.
4. Regulate and prevent in all public places:
 - (a) The distribution and exhibition of handbills or signs.
 - (b) Any practice tending to annoy persons passing in such public places.
 - (c) Public demonstrations and processions.
5. Prevent riots or any act tending to promote riots in any public place.

Sec. 11. Section 2.210 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, at page 61, as amended by chapter 237, Statutes of Nevada 2003, at page 1252, is hereby amended to read as follows:

Sec. 2.210 Powers of City Council: Traffic control. The City Council may, by ordinance, regulate:

1. Except as otherwise provided in NRS 707.375 ~~[(1)]~~ and section 2 of this act, all vehicular, pedestrian and other traffic within the City and provide generally for the public safety on public streets and rights-of-way.
2. The length of time for which vehicles may be parked upon the public streets and publicly owned parking lots.

Sec. 12. Section 2.210 of the Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 609, is hereby amended to read as follows:

Sec. 2.210 Powers of Board of Councilmen: Rights-of-way, parks, public buildings and grounds and other public places. ~~[(The)]~~ Except as otherwise provided in section 2 of this act, the Board of Councilmen may:

1. Lay out, maintain, alter, improve or vacate all public rights-of-way in the City.
2. Regulate the use of public parks, buildings, grounds and rights-of-way and prevent the unlawful use thereof.
3. Require landowners to keep the adjacent streets, sidewalks and public parks, buildings and grounds free from encroachments or obstructions.
4. Regulate and prevent in all public places:

- (a) The distribution and exhibition of handbills or signs.
 - (b) Any practice tending to annoy persons passing in such public places.
 - (c) Public demonstrations and processions.
5. Prevent riots or any act tending to promote riots in any public place.

Sec. 13. Section 2.230 of the Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 610, as amended by chapter 237, Statutes of Nevada 2003, at page 1252, is hereby amended to read as follows:

Sec. 2.230 Powers of Board of Councilmen: Traffic control. The Board of Councilmen may, by ordinance, regulate:

1. Except as otherwise provided in NRS 707.375 ~~and~~ and section 2 of this act, all vehicular, pedestrian and other traffic within the City and provide generally for the public safety on public streets and rights-of-way.

2. The length of time for which vehicles may be parked upon the public streets and publicly owned parking lots.

Sec. 14. Section 2.130 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, at page 297, as amended by chapter 237, Statutes of Nevada 2003, at page 1252, is hereby amended to read as follows:

Sec. 2.130 Uniform codes: Procedure for adoption. Except as otherwise provided in NRS 707.375 ~~and~~ and section 2 of this act, an ordinance adopting a uniform building, plumbing, electrical, health, traffic or fire code, or any other uniform code or codes, printed in book or pamphlet form, may adopt such code or codes, or any portion thereof, with such changes as may be necessary to make such code or codes applicable to conditions in Carson City, and with such other changes as may be desirable, by reference thereto. Copies of such code or codes, either typewritten or printed, with such changes, if any, shall be filed for use and examination by the public in the Office of the Clerk at least 1 week prior to the passage of the ordinance adopting such code or codes.

Sec. 15. Section 2.230 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, at page 299, is hereby amended to read as follows:

Sec. 2.230 Power of Board: Rights-of-way, parks and public buildings and grounds. ~~The~~ Except as otherwise provided in section 2 of this act, the Board may:

1. Lay out, maintain, alter, improve or vacate all public rights-of-way in Carson City.

2. Regulate the use of public parks, buildings, grounds and rights-of-way and prevent the unlawful use thereof.

3. Regulate and prevent in the public parks, buildings, grounds and rights-of-way:

- (a) The distribution and exhibition of handbills or signs.

(b) Any practice tending to annoy persons passing in public parks, buildings, grounds and rights-of-way.

(c) Public demonstrations and processions.

4. Require landowners to keep the adjacent streets, sidewalks and public parks, buildings and grounds free from encroachments or obstructions.

Sec. 16. Section 2.250 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, at page 299, as amended by chapter 237, Statutes of Nevada 2003, at page 1253, is hereby amended to read as follows:

Sec. 2.250 Power of Board: Traffic control. The Board may, by ordinance, regulate:

1. Except as otherwise provided in NRS 707.375 ~~and~~ and section 2 of this act, all vehicular, pedestrian and other traffic within Carson City and provide generally for the public safety on the public streets and rights-of-way.

2. The length of time which vehicles may be parked upon the public streets and publicly owned parking lots.

Sec. 17. Section 2.250 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, at page 482, as amended by chapter 51, Statutes of Nevada 2001, at page 457, is hereby amended to read as follows:

Sec. 2.250 Powers of City Council: Rights-of-way, parks, public buildings and grounds and other public places. ~~(The)~~ Except as otherwise provided in section 2 of this act, the City Council may:

1. Lay out, maintain, alter, improve or vacate all public rights-of-way in the City.

2. Regulate the use of public parks, buildings, grounds and rights-of-way and prevent the unlawful use thereof.

3. Require landowners to keep the adjacent streets, sidewalks and public parks, buildings and grounds free from encroachments or obstructions.

4. To the extent permissible under the Nevada Constitution and the Constitution of the United States, regulate and prevent in all public places:

(a) The distribution and exhibition of handbills or signs.

(b) Any practice tending to annoy persons passing in such public places.

(c) Public demonstrations and processions.

5. Prevent riots or any act tending to promote riots in any public place.

Sec. 18. Section 2.260 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, at page 482, as last amended by chapter 237, Statutes of Nevada 2003, at page 1253, is hereby amended to read as follows:

Sec. 2.260 Powers of City Council: Traffic control. The City Council may, by ordinance, regulate:

1. Except as otherwise provided in NRS 707.375 ~~1-1~~ and section 2 of this act, all vehicular, pedestrian and other traffic within the City and provide generally for the public safety on public streets and rights-of-way.

2. The length of time for which vehicles may be parked upon the public streets and publicly owned parking lots.

Sec. 19. Section 2.200 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, at page 408, is hereby amended to read as follows:

Sec. 2.200 Powers of City Council: Rights-of-way, parks, public buildings and grounds and other public places. ~~The~~ Except as otherwise provided in section 2 of this act, the City Council may:

1. Lay out, maintain, alter, improve or vacate all public rights-of-way in the City.

2. Regulate the use of public parks, buildings, grounds and rights-of-way and prevent the unlawful use thereof.

3. Require landowners to keep the adjacent streets, sidewalks and public parks, buildings and grounds free from encroachments or obstructions.

4. Regulate and prevent in all public places:

(a) The distribution and exhibition of handbills or signs.

(b) Any practice tending to annoy persons passing or being in such public places.

(c) Public demonstrations and processions.

5. Prevent riots or any act tending to promote riots in any public place.

Sec. 20. Section 2.210 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, at page 408, as amended by chapter 237, Statutes of Nevada 2003, at page 1253, is hereby amended to read as follows:

Sec. 2.210 Powers of City Council: Traffic control. The City Council may, by ordinance, regulate:

1. Except as otherwise provided in NRS 707.375 ~~1-1~~ and section 2 of this act, all vehicular, pedestrian and other traffic within the City and provide generally for the public safety on public streets and rights-of-way.

2. The length of time for which vehicles may be parked upon the public streets and publicly owned parking lots.

Sec. 21. Section 2.220 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1400, is hereby amended to read as follows:

Sec. 2.220 Powers of City Council: Rights-of-way, parks, public buildings and grounds and other public places. ~~[(The)]~~ Except as otherwise provided in section 2 of this act, the City Council may:

1. Lay out, maintain, alter, improve or vacate all public rights-of-way in the City.
2. Regulate the use of public parks, buildings, grounds and rights-of-way and prevent the unlawful use of those public places.
3. Require landowners to keep the adjacent streets, sidewalks, public parks, buildings and grounds free from encroachments or obstructions.
4. Regulate and prevent in all public places:
 - (a) The distribution and exhibition of handbills or signs.
 - (b) Any practice which tends to annoy persons passing in those public places.
 - (c) Public demonstrations and processions.
5. Prevent riots or any act which tends to promote riots in any public place.

Sec. 22. Section 2.230 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1401, as amended by chapter 237, Statutes of Nevada 2003, at page 1253, is hereby amended to read as follows:

Sec. 2.230 Powers of City Council: Traffic control. The City Council may by ordinance regulate:

1. Except as otherwise provided in NRS 707.375 ~~[(1)]~~ and section 2 of this act, all vehicular, pedestrian and other traffic within the City and provide generally for the public safety on the public streets, publicly owned parking lots, parking areas to which the public is invited and public rights-of-way.
2. The length of time for which vehicles may be parked upon the public streets and publicly owned parking lots.

Sec. 23. Section 2.200 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, at page 1217, is hereby amended to read as follows:

Sec. 2.200 Powers of City Council: Rights-of-way, parks, public buildings and grounds and other public places. ~~[(The)]~~ Except as otherwise provided in section 2 of this act, the City Council may:

1. Lay out, maintain, alter, control, improve or vacate all public rights-of-way in the City.
2. Acquire and regulate the use of public parks, buildings, grounds and rights-of-way and prevent the unlawful use thereof.
3. Require landowners to keep the adjacent streets, sidewalks and public parks, buildings and grounds free from encroachments or obstructions.
4. Regulate and prevent in all public places:
 - (a) The distribution and exhibition of handbills or signs.

(b) Any practice tending to annoy persons passing in such public places.

(c) Public demonstrations and processions.

5. Prevent riots or any act tending to promote riots.

Sec. 24. Section 2.210 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, at page 1217, as amended by chapter 237, Statutes of Nevada 2003, at page 1253, is hereby amended to read as follows:

Sec. 2.210 Powers of City Council: Traffic control. The City Council may, by ordinance, regulate:

1. Except as otherwise provided in NRS 707.375 ~~1-1~~ and section 2 of this act, all vehicular, pedestrian and other traffic within the City and provide generally for the public safety on public streets and rights-of-way.

2. The length of time for which vehicles may be parked upon the public streets and parking facilities.

Sec. 25. Section 2.110 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, at page 1967, as last amended by chapter 237, Statutes of Nevada 2003, at page 1254, is hereby amended to read as follows:

Sec. 2.110 Uniform codes: Procedure for adoption. Except as otherwise provided in NRS 707.375 ~~1-1~~ and section 2 of this act, a uniform building, plumbing, electrical, health, traffic or fire code, or any other uniform code, printed in book or pamphlet form, or any portion thereof, with such changes as may be necessary to make the code applicable to conditions in the City, and with such other changes as may be desirable, may be adopted in an ordinance by reference thereto. Copies of the code, with such changes, if any, must be filed for use and examination by the public in the Office of the Clerk at least 1 week before the passage of the ordinance adopting the code.

Sec. 26. Section 2.090 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, at page 731, as last amended by chapter 325, Statutes of Nevada 2005, at page 1144, is hereby amended to read as follows:

Sec. 2.090 Powers of City Council: General areas. The City Council may exercise any power specifically granted in this Charter or by any of the provisions of Nevada Revised Statutes not in conflict with this Charter, in order to:

1. Except as otherwise provided in NRS 598D.150 and 640C.100, license all businesses, trades and professions for purposes of regulation and revenue.

2. Enact and enforce fire ordinances.

3. Regulate the construction and maintenance of any building or other structure within the City.

4. Provide for safeguarding of public health in the City.

5. Zone and plan the City, including the regulation of subdivision of land, as prescribed by chapter 278 of NRS.

6. ~~Acquire,~~ Except as otherwise provided in section 2 of this act, acquire, control, lease, dedicate, sell and convey rights-of-way, parks and other real property.

7. Except as otherwise provided in NRS 707.375, regulate vehicular traffic and parking of vehicles.

8. Establish and maintain a sanitary sewer system.

9. Condemn property within the territorial limits of the City, as well as property outside the territorial limits of the City, in the manner prescribed by chapter 37 of NRS.

10. Regulate, prescribe the location for, prohibit or suppress all businesses selling alcoholic liquors at wholesale or retail.

11. Regulate, prescribe the location for, prohibit or suppress gaming of all kinds.

Sec. 27. Section 2.210 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, at page 464, is hereby amended to read as follows:

Sec. 2.210 Powers of Board of Councilmen: Rights-of-way, parks, public buildings and grounds and other public places. ~~The~~ Except as otherwise provided in section 2 of this act, the Board of Councilmen may:

1. Lay out, maintain, alter, improve or vacate all public rights-of-way in the City.

2. Regulate the use of public parks, buildings, grounds and rights-of-way and prevent the unlawful use thereof.

3. Require landowners to keep the adjacent streets, sidewalks and public parks, buildings and grounds free from encroachments or obstructions.

4. Regulate and prevent in all public places:

(a) The distribution and exhibition of handbills or signs.

(b) Any practice tending to annoy persons passing in such public places.

(c) Public demonstrations and processions.

5. Prevent riots or any act tending to promote riots in any public place.

Sec. 28. Section 2.230 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, at page 464, as amended by chapter 237, Statutes of Nevada 2003, at page 1254, is hereby amended to read as follows:

Sec. 2.230 Powers of Board of Councilmen: Traffic control. The Board of Councilmen may, by ordinance, regulate:

1. Except as otherwise provided in NRS 707.375 ~~and~~ section 2 of this act, all vehicular, pedestrian and other traffic within the

City and provide generally for the public safety on public streets and rights-of-way.

2. The length of time for which vehicles may be parked upon the public streets and publicly owned parking lots.

Sec. 29. Section 2.200 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, at page 907, is hereby amended to read as follows:

Sec. 2.200 Powers of City Council: Rights-of-way, parks, public buildings and grounds and other public places. ~~[The]~~ Except as otherwise provided in section 2 of this act, the City Council may:

1. Lay out, maintain, alter, improve or vacate all public rights-of-way in the City.

2. Regulate the use of public parks, buildings, grounds and rights-of-way and prevent the unlawful use thereof.

3. Require landowners to keep the adjacent streets, sidewalks and public parks, buildings and grounds free from encroachments or obstructions.

4. Regulate and prevent in all public places:

(a) The distribution and exhibition of handbills or signs.

(b) Any practice tending to annoy persons passing in such public places.

(c) Public demonstrations and processions.

5. Prevent riots or any act tending to promote riots in any public place.

Sec. 30. Section 2.210 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, at page 907, as last amended by chapter 237, Statutes of Nevada 2003, at page 1255, is hereby amended to read as follows:

Sec. 2.210 Powers of City Council: Traffic control. The City Council may, by ordinance, regulate:

1. Except as otherwise provided in NRS 707.375 ~~and~~ and section 2 of this act, all vehicular, pedestrian and other traffic within the City and provide generally for the public safety on public streets and rights-of-way, publicly owned parking lots and parking areas to which the public is invited.

2. The length of time for which vehicles may be parked upon the public streets and publicly owned parking lots.

Senator Care moved the adoption of the amendment.

Remarks by Senators Care, Coffin, Hardy and Titus.

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

SENATOR CARE:

Thank you, Mr. President. This amendment was actually Senate Bill No. 13, which was heard before the Senate Committee on Government Affairs. There was a subcommittee created that took public testimony. I refer to this as the First Amendment bill. I brought it forth because the

federal courts, the Ninth Circuit Court and, lately, the United States District Court for the District of Nevada, have been chiseling away at the resistance we have seen by local governments, primarily in southern Nevada, to honor the First Amendment when it comes to people walking down the sidewalk or otherwise engaging in free speech activities recognized everywhere else.

The bill never did receive a vote in committee. I discussed that with the chair of the committee. I understand his position, and I respect it, but I did tell the committee that when I had a chance, I would bring this amendment before the full body to get a vote. If the bill had died in committee, I would not have done this. It is the same chapter. The Legislative Counsel Bureau (LCB) has told me that the bill is germane, and that this is a permissible amendment. I know the First Amendment makes some people uncomfortable. They do not understand it. They are comfortable with their own views, but sometimes, they are uncomfortable with the views and activities of others.

This all started when I read in the newspaper a few years ago about a couple of street ministers, who I do not know, were arrested pursuant to a Clark County ordinance on the Strip while carrying signs that simply said, "Trust Jesus." They were charged for violation of an ordinance that says you cannot do that on the Strip unless it is a sign that pertains to labor activities. They were let go. Basic First Amendment law says that in a traditional public forum and a public sidewalk, and this amendment only addresses the public sidewalk, not walkways through private property, that any regulation that regulates time, place and manner of your First Amendment activities is possibly permissible, but you will have to demonstrate a substantial governmental interest in doing that. It must be content neutral. In 2006, the Ninth Circuit recognized in *ACLU vs. The City of Las Vegas* that a similar ordinance in the City of Las Vegas is unconstitutional on its face. This bill says with this amendment that if you are going to have an ordinance like that, then it is going to have to be content neutral and that any activities that are not protected by the First Amendment are precluded. If you are concerned that people are going to walk down the sidewalk with signs that are pornographic or graphic in a way that offends morals, there are other laws that govern that; you are all right. We are only talking about what is already recognized as protected speech. That is it. As I have pointed out, as the amendment says, we are talking about a public sidewalk. It may be on private property, but that is a traditional public forum. This amendment is recognition of the First Amendment. It is intended, among other things, to get rid of all the litigation that has been expensive and time consuming that we have seen, primarily, in southern Nevada.

SENATOR HARDY:

Thank you, Mr. President. I rise in opposition to the amendment. I respectfully request the Senator from District 7 to provide the chair of the committee with a copy of the opinion that indicates that this is germane. It may be germane technically, but I do not think its subject matter is germane at all.

With regard to Senate Bill No. 13, as I indicated in committee, there are people in this process I respect as much as the Senator from District 7, but there are not any I respect more.

I think he brought forward a concept and an idea that was worthy of our deliberations and was worthy of our discussion. I did not hold a vote in committee on it because I feared that the votes were not there, and I did not want that to speak to the merits to the bill. I committed to the Senator from District 7 that I would continue to work with him to try to find a way to resolve his problems. I had concerns that we did not overcome in the subcommittees that we held and the work I asked him to do relative to the elevation of commercial speech to protected speech. I still have those concerns. I cannot be the chair of a committee that somehow elevates pornography to something that cannot be regulated by local governments. I cannot overcome those concerns, which is the reason I did not bring the bill up for a vote. I have a policy as chair of the committee that any colleague, who requests a hearing, gets a hearing. Any colleague, who requests a vote, will get a vote. I did not want it to appear that the committee was rejecting the concept that the Senator from District 7 had brought forward by killing the bill. If that is a point of confusion, we will certainly not take that approach next time. But, I have to object. The bill may technically be germane to the topic in Senate Bill No. 325, but I do not think the subject matter is germane.

From that perspective, I need to protect the integrity of the committee process and object to the passage of this amendment.

SENATOR CARE:

Thank you, Mr. President. Let me clarify, the chair was quite good to me with the creation of a subcommittee. We did have additional public testimony on the bill. I am not concerned about that. The opinions just raised by the chair are opinions I have heard from others as well. Commercial speech is also protected speech. It is not protected to the extent that political opinion is. There are statutes that say you cannot fraudulently advertise.

I would emphasize that in section 2, subsection 2 of the amendment, it says, "the provisions of subsection 1 must not be construed to prohibit a local government from enacting or enforcing an ordinance or regulation that restricts, limits or regulates speech or conduct that is not protected by the First Amendment to the United States Constitution or section 9 of article 1 of the Nevada Constitution."

SENATOR TITUS:

Thank you, Mr. President. I appreciate the concern over whether something is technically germane or whether it is just germane in the mind of an individual. Our rules say "technically germane" and as long as the rules are such that people can bring amendments to the floor that apply to certain chapters, I think we should abide by those rules. Some people might not like that. Some people might want to have total control of the process, but that is what the rules say, and that is what we have done and will continue to do in compliance with those rules.

SENATOR COFFIN:

Thank you, Mr. President. Let it be known that on these two amendments that all Democrats stood and supported the amendments. The amendments supported were Amendment Nos. 499 and 491. I had asked for a roll call but there was confusion about whether a Division of the House, or a roll call meant the difference. I want it made certain it is noted from this side that, the minority party supported those amendments.

Motion lost on a division of the house.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 337.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 526.

"SUMMARY—Makes a supplemental appropriation to the Division of Mental Health and Developmental Services of the Department of Health and Human Services for the Family Preservation Program. (BDR S-1256)"

"AN ACT making a supplemental appropriation to the Division of Mental Health and Developmental Services of the Department of Health and Human Services for the Family Preservation Program; 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 Mental Health and Developmental Services of the Department of Health and Human Services the sum of ~~(\$60,000)~~ \$40,000 for costs relating to unanticipated caseload growth in the Family Preservation Program. This appropriation is supplemental to that made by section 20 of chapter 434, Statutes of Nevada 2005, at page 1940.

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

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 354.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 291.

"SUMMARY—Makes various changes to provisions relating to the safety of children. (BDR 15-1062)"

"AN ACT relating to the safety of children; increasing the penalty for the unlawful possession of a firearm while on school property; revising the definition of "firearm"; requiring children who are taken into custody for possession of a firearm while on school property to submit to an evaluation by a qualified professional and a drug test; revising provisions concerning certain sex offenders who are on lifetime supervision or released on parole, probation or a suspended sentence; authorizing school police officers to issue traffic citations under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill revises the definition of "firearm" and increases the penalty for the unlawful possession of a firearm while on school property from a gross misdemeanor to a category E felony. (NRS 202.265) Existing law allows a juvenile court to decide whether to order a child who is taken into custody for certain unlawful acts involving firearms to submit to an evaluation by a qualified professional. (NRS 62C.060) Section 3 of this bill requires a juvenile court to order a child who is taken into custody for possession of a firearm on school property to submit to an evaluation by a qualified professional and a drug test.

Existing law sets forth certain conditions to be imposed on sex offenders on lifetime supervision or released on parole, probation or a suspended sentence. (NRS 176A.410, 213.1243, 213.1245, 213.1255) Sections 4-6 of this bill prohibit such sex offenders from establishing residences ~~located within 1,000 feet of any place that is primarily designed for use by or for children and require, if the residence is,~~ in a facility that houses more than three persons who have been released from prison ~~if,~~ unless the facility ~~be,~~ is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

Existing law gives school police officers the powers of a peace officer. (NRS 289.190) Section 8 of this bill defines the scope of authority of school police officers, including the authority to issue traffic citations on any public street lying near any public school.

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

Section 1. NRS 202.265 is hereby amended to read as follows:

202.265 1. Except as otherwise provided in this section, a person shall not carry or possess, while on the property of the Nevada System of Higher Education or a private or public school or while in a vehicle of a private or public school:

- (a) An explosive or incendiary device;
- (b) A dirk, dagger or switchblade knife;
- (c) A nunchaku or trefoil; ~~for~~
- (d) A blackjack or billy club or metal knuckles ~~for~~; or
- (e) ~~[A pistol, revolver or other firearm.]~~ Any device used to mark any part of a person with paint or any other substance.

2. Any person who violates subsection 1 is guilty of a gross misdemeanor.

3. *Except as otherwise provided in this section, a person who carries or possesses a pistol, revolver or other firearm while on the property of the Nevada System of Higher Education or a private or public school or while in a vehicle of a private or public school is guilty of a category E felony and shall be punished as provided in NRS 193.130.*

4. This section does not prohibit the possession of a weapon listed in subsection 1 *or described in subsection 3* on the property of a private or public school by a:

- (a) Peace officer;
- (b) School security guard; or
- (c) Person having written permission from the president of a branch or facility of the Nevada System of Higher Education or the principal of the school to carry or possess the weapon.

~~[4.]~~ 5. For the purposes of this section:

- (a) "Firearm" includes ~~the~~
- ~~(1) Any device used to mark the clothing of a person with paint or any other substance; and~~

~~(2) Any~~ any device from which a metallic projectile, including any ball bearing or pellet, may be expelled by means of spring, gas, air or other force.

- (b) "Nunchaku" has the meaning ascribed to it in NRS 202.350.
- (c) "Switchblade knife" has the meaning ascribed to it in NRS 202.350.
- (d) "Trefoil" has the meaning ascribed to it in NRS 202.350.
- (e) "Vehicle" has the meaning ascribed to "school bus" in NRS 484.148.

Sec. 2. NRS 202.3673 is hereby amended to read as follows:

202.3673 1. Except as otherwise provided in subsections 2 and 3, a permittee may carry a concealed firearm while he is on the premises of any public building.

2. A permittee shall not carry a concealed firearm while he is on the premises of a public building that is located on the property of a public airport.

3. A permittee shall not carry a concealed firearm while he is on the premises of:

(a) A public building that is located on the property of a public school or the property of the Nevada System of Higher Education, unless the permittee has obtained written permission to carry a concealed firearm while he is on the premises of the public building pursuant to paragraph (c) of subsection ~~{3}~~ 4 of NRS 202.265.

(b) A public building that has a metal detector at each public entrance or a sign posted at each public entrance indicating that no firearms are allowed in the building, unless the permittee is not prohibited from carrying a concealed firearm while he is on the premises of the public building pursuant to subsection 4.

4. The provisions of paragraph (b) of subsection 3 do not prohibit:

(a) A permittee who is a judge from carrying a concealed firearm in the courthouse or courtroom in which he presides or from authorizing a permittee to carry a concealed firearm while in the courtroom of the judge and while traveling to and from the courtroom of the judge.

(b) A permittee who is a prosecuting attorney of an agency or political subdivision of the United States or of this State from carrying a concealed firearm while he is on the premises of a public building.

(c) A permittee who is employed in the public building from carrying a concealed firearm while he is on the premises of the public building.

(d) A permittee from carrying a concealed firearm while he is on the premises of the public building if the permittee has received written permission from the person in control of the public building to carry a concealed firearm while the permittee is on the premises of the public building.

5. A person who violates subsection 2 or 3 is guilty of a misdemeanor.

6. As used in this section, "public building" means any building or office space occupied by:

(a) Any component of the Nevada System of Higher Education and used for any purpose related to the System; or

(b) The Federal Government, the State of Nevada or any county, city, school district or other political subdivision of the State of Nevada and used for any public purpose.

➡ If only part of the building is occupied by an entity described in this subsection, the term means only that portion of the building which is so occupied.

Sec. 3. NRS 62C.060 is hereby amended to read as follows:

62C.060 1. If a peace officer or probation officer has probable cause to believe that a child is committing or has committed an unlawful act that involves the possession, use or threatened use of a firearm, the officer shall take the child into custody.

2. If a child is taken into custody for an unlawful act described in this section, the child must not be released before a detention hearing is held pursuant to NRS 62C.040.

3. At the detention hearing, the juvenile court shall , *if the child was taken into custody for:*

(a) *Carrying or possessing a firearm while on the property of the Nevada System of Higher Education or a private or public school or while in a vehicle of a private or public school, order the child to:*

(1) *Be evaluated by a qualified professional; and*

(2) *Submit to a test to determine whether the child is using any controlled substance.*

(b) *Committing an unlawful act involving a firearm other than the act described in paragraph (a), determine whether to order the child to be evaluated by a qualified professional.*

4. If the juvenile court orders the child to be evaluated by a qualified professional ~~or to submit to a test to determine whether the child is using any controlled substance~~, the evaluation ~~or the results from the test~~ must be completed not later than 14 days after the detention hearing. Until the evaluation ~~or the test~~ is completed, the child must be:

(a) Detained at a facility for the detention of children; or

(b) Placed under a program of supervision in the home of the child that may include electronic surveillance of the child.

5. If a child is evaluated by a qualified professional pursuant to this section, the statements made by the child to the qualified professional during the evaluation and any evidence directly or indirectly derived from those statements may not be used for any purpose in a proceeding which is conducted to prove that the child committed a delinquent act or criminal offense. The provisions of this subsection do not prohibit the district attorney from proving that the child committed a delinquent act or criminal offense based upon evidence obtained from sources or by means that are independent of the statements made by the child to the qualified professional during the evaluation.

Sec. 4. NRS 176A.410 is hereby amended to read as follows:

176A.410 1. Except as otherwise provided in subsection 3, if a defendant is convicted of a sexual offense and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension of sentence that the defendant:

(a) Submit to a search and seizure of his person, residence or vehicle or any property under his control, at any time of the day or night, without a warrant, by any parole and probation officer or any peace officer, for the purpose of determining whether the defendant has violated any condition of probation or suspension of sentence or committed any crime . ~~or~~

(b) Reside at a location only if ~~it~~ :

~~(1) The residence is not located within 1,000 feet of any place that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.~~

~~(2)~~ The residence has been approved by the parole and probation officer assigned to the defendant. ~~{and keep}~~

~~{(3)}~~ (2) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

~~{(4)}~~ (3) The defendant keeps the parole and probation officer informed of his current address. ~~{;}~~

(c) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the defendant and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer. ~~{;}~~

(d) Abide by any curfew imposed by the parole and probation officer assigned to the defendant. ~~{;}~~

(e) Participate in and complete a program of professional counseling approved by the Division. ~~{;}~~

(f) Submit to periodic tests, as requested by the parole and probation officer assigned to the defendant, to determine whether the defendant is using a controlled substance. ~~{;}~~

(g) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the defendant. ~~{;}~~

(h) Abstain from consuming, possessing or having under his control any alcohol. ~~{;}~~

(i) Not have contact or communicate with a victim of the sexual offense or a witness who testified against the defendant or solicit another person to engage in such contact or communication on behalf of the defendant, unless approved by the parole and probation officer assigned to the defendant, and a written agreement is entered into and signed in the manner set forth in subsection 2. ~~{;}~~

(j) Not use aliases or fictitious names. ~~{;}~~

(k) Not obtain a post office box unless the defendant receives permission from the parole and probation officer assigned to the defendant. ~~{;}~~

(l) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of a sexual offense is present and permission has been obtained from the parole and probation officer assigned to the defendant in advance of each such contact. ~~{;}~~

(m) Unless approved by the parole and probation officer assigned to the defendant and by a psychiatrist, psychologist or counselor treating the defendant, if any, not be in or near:

(1) A ~~within 1,000 feet of any place that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a~~ playground, ~~for~~ park, school or school grounds;

(2) A ~~an athletic field or a facility for youth sports, or a~~ motion picture theater ~~for~~; or

(3) A business that primarily has children as customers or conducts events that primarily children attend. ~~for~~

(n) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication. ~~for~~

(o) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the defendant. ~~for~~

(p) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the defendant. ~~for~~

(q) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the defendant. ~~for and~~

(r) Inform the parole and probation officer assigned to the defendant if the defendant expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (i) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

- (a) The victim or the witness;
- (b) The defendant;
- (c) The parole and probation officer assigned to the defendant;
- (d) The psychiatrist, psychologist or counselor treating the defendant, victim or witness, if any; and
- (e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.

3. The court is not required to impose a condition of probation or suspension of sentence listed in subsection 1 if the court finds that extraordinary circumstances are present and the court enters those extraordinary circumstances in the record.

4. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.410.

Sec. 5. NRS 213.1243 is hereby amended to read as follows:

213.1243 1. The Board shall establish by regulation a program of lifetime supervision of sex offenders to commence after any period of probation or any term of imprisonment and any period of release on parole. The program must provide for the lifetime supervision of sex offenders by parole and probation officers.

2. Lifetime supervision shall be deemed a form of parole for:

(a) The limited purposes of the applicability of the provisions of NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and subsection 2 of NRS 213.110; and

(b) The purposes of the Interstate Compact for Adult Offender Supervision ratified, enacted and entered into by the State of Nevada pursuant to NRS 213.215.

3. *Except as otherwise provided in subsection 4, the Board shall require as a condition of lifetime supervision that the sex offender ~~+~~*

~~(a) Reside~~ *reside at a location only if:*

~~+~~ ~~(1) The residence is not located within 1,000 feet of any place that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.~~

~~(2) (a)~~ *The residence has been approved by the parole and probation officer assigned to the person.*

~~+~~ ~~(3) (b)~~ *If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.*

~~+~~ ~~(4) (c)~~ *The person keeps the parole and probation officer informed of his current address.*

~~+~~ ~~(b) Unless approved by the parole and probation officer assigned to the sex offender and by a psychiatrist, psychologist or counselor treating the sex offender, if any, not be within 1,000 feet of any place that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.~~

4. The Board is not required to impose a condition pursuant to the program of lifetime supervision listed in subsection 3 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

5. A person who commits a violation of a condition imposed on him pursuant to the program of lifetime supervision is guilty of:

(a) If the violation constitutes a minor violation, a misdemeanor.

(b) If the violation constitutes a major violation, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of

not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

~~{4-}~~ 6. For the purposes of prosecution of a violation by a person of a condition imposed upon him pursuant to the program of lifetime supervision, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of lifetime supervision pursuant to NRS 176.0931 is located, regardless of whether the acts or conduct constituting the violation took place, in whole or in part, within or outside that county or within or outside this State.

~~{5-}~~ 7. As used in this section:

(a) "Major violation" means a violation which poses a threat to the safety or well-being of others and which involves:

(1) The commission of any crime that is punishable as a gross misdemeanor or felony or any crime that involves a victim who is less than 18 years of age;

(2) The use of a deadly weapon, explosives or a firearm;

(3) The use or threatened use of force or violence against a person;

(4) Death or bodily injury of a person;

(5) An act of domestic violence;

(6) Harassment, stalking or threats of any kind; or

(7) The forcible or unlawful entry of a home, building, structure or vehicle in which a person is present.

(b) "Minor violation" means a violation that does not constitute a major violation.

Sec. 6. NRS 213.1245 is hereby amended to read as follows:

213.1245 1. Except as otherwise provided in subsection 3, if the Board releases on parole a prisoner convicted of an offense listed in NRS 179D.620, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee:

(a) Reside at a location only if ~~{it}~~ :

~~(1) *The residence is not located within 1,000 feet of any place that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater.*~~

~~(2)~~ *The residence has been approved by the parole and probation officer assigned to the parolee . ~~{and keep}~~*

~~{(3)}~~ *(2) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.*

~~{(4)}~~ *(3) The parolee keeps the parole and probation officer informed of his current address . ~~{-}~~*

(b) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the parolee

and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer . [;]

(c) Abide by any curfew imposed by the parole and probation officer assigned to the parolee . [;]

(d) Participate in and complete a program of professional counseling approved by the Division . [;]

(e) Submit to periodic tests, as requested by the parole and probation officer assigned to the parolee, to determine whether the parolee is using a controlled substance . [;]

(f) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the parolee . [;]

(g) Abstain from consuming, possessing or having under his control any alcohol . [;]

(h) Not have contact or communicate with a victim of the offense or a witness who testified against the parolee or solicit another person to engage in such contact or communication on behalf of the parolee, unless approved by the parole and probation officer assigned to the parolee, and a written agreement is entered into and signed in the manner set forth in subsection 2 . [;]

(i) Not use aliases or fictitious names . [;]

(j) Not obtain a post office box unless the parolee receives permission from the parole and probation officer assigned to the parolee . [;]

(k) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of an offense listed in NRS 179D.410 is present and permission has been obtained from the parole and probation officer assigned to the parolee in advance of each such contact . [;]

(l) Unless approved by the parole and probation officer assigned to the parolee and by a psychiatrist, psychologist or counselor treating the parolee, if any, not be in or near:

(1) A ~~fr~~within 1,000 feet of any place that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, ~~at~~ park, school or school grounds;

(2) A ~~an~~ athletic field or a facility for youth sports, or a picture theater ~~at~~ ; or

(3) A business that primarily has children as customers or conducts events that primarily children attend . [;]

(m) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication . [;]

(n) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the parolee . [;]

(o) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the parolee. ~~[-;]~~

(p) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the parolee. ~~[-; and]~~

(q) Inform the parole and probation officer assigned to the parolee if the parolee expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (h) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

- (a) The victim or the witness;
- (b) The parolee;
- (c) The parole and probation officer assigned to the parolee;
- (d) The psychiatrist, psychologist or counselor treating the parolee, victim or witness, if any; and
- (e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child.

3. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

Sec. 7. ~~[NRS 213.1255 is hereby amended to read as follows:
213.1255 1. In addition to any conditions of parole required to be imposed pursuant to NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection 2 against a child under the age of 14 years, the Board shall, when appropriate:~~

- ~~(a) Require the parolee to participate in psychological counseling. [-;]~~
- ~~(b) Prohibit the parolee from being alone with a child unless another adult who has never been convicted of a sexual offense is present [-; and]~~
- ~~(c) Prohibit the parolee from being on or near the grounds of any place that is primarily designed for use by or for children, including, without limitation, a public or private school, a center or facility that provides day care services, a video arcade and an amusement park.]~~

~~2. The provisions of subsection 1 apply to a prisoner who was convicted of:~~

- ~~(a) Sexual assault pursuant to paragraph (c) of subsection 3 of NRS 200.366;~~

~~(b) Abuse or neglect of a child pursuant to subparagraph (1) of paragraph (a) of subsection 1 or subparagraph (1) of paragraph (a) of subsection 2 of NRS 200.508;~~

~~(c) An offense punishable pursuant to subsection 2 of NRS 200.750;~~

~~(d) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 201.195;~~

~~(e) Lewdness with a child pursuant to NRS 201.230;~~

~~(f) Luring a child or mentally ill person pursuant to NRS 201.560, if punished as a felony; or~~

~~(g) Any combination of the crimes listed in paragraphs (a) to (f), inclusive. (Deleted by amendment.)~~

Sec. 8. NRS 289.190 is hereby amended to read as follows:

289.190 1. A person employed or appointed to serve as a school police officer pursuant to subsection 8 of NRS 391.100 has the powers of a peace officer. A school police officer shall perform his duties in compliance with the provisions of NRS 171.1223 ~~[-]~~ *and, except as otherwise provided in subsection 2, may exercise his power and authority only:*

(a) Upon the property of the school district;

(b) When in hot pursuit of a violator leaving such property; ~~and~~

(c) In or about other grounds or properties of the school district ~~[-]~~; and

(d) At activities or events sponsored by the school district that are in a location other than the property of the school district.

2. A school police officer may, in the manner provided in NRS 484.799, prepare and issue a traffic citation for a violation of chapter 484 of NRS on any public street that is adjacent to any public school in the school district.

3. A person appointed pursuant to NRS 393.0718 by the board of trustees of any school district has the powers of a peace officer to carry out the intents and purposes of NRS 393.071 to 393.0719, inclusive.

~~[-]~~ 4. Members of every board of trustees of a school district, superintendents of schools, principals and teachers have concurrent power with peace officers for the protection of children in school and on the way to and from school, and for the enforcement of order and discipline among such children, including children who attend school within one school district but reside in an adjoining school district or adjoining state, pursuant to the provisions of chapter 392 of NRS. This subsection must not be construed so as to make it the duty of superintendents of schools, principals and teachers to supervise the conduct of children while not on the school property.

Sec. 9. NRS 449.037 is hereby amended to read as follows:

449.037 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.001 to 449.240, inclusive, and for programs of hospice care.

(b) Regulations governing the licensing of such facilities and programs.

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Health Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.001 to 449.240, inclusive.

2. The Board shall adopt separate regulations governing the licensing and operation of:

(a) Facilities for the care of adults during the day; and

(b) Residential facilities for groups,

↳ which provide care to persons with Alzheimer's disease.

3. The Board shall adopt separate regulations for:

(a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.

(b) The licensure of facilities for refractive surgery which take into consideration the unique factors of operating such a facility.

(c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. The Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

(a) The ultimate user's physical and mental condition is stable and is following a predictable course.

(b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) The prescribed medication is not administered by injection or intravenously.

(e) The employee has successfully completed training and examination approved by the Health Division regarding the authorized manner of assistance.

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The Board shall not allow the licensing of a facility as a residential facility for groups which provides assisted living services and a residential facility for groups shall not claim that it provides "assisted living services" unless:

(a) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what services of personalized care will be available to the person and the amount that will be charged for those services throughout the resident's stay at the facility.

(b) The residents of the facility reside in their own living units which:

(1) Except as otherwise provided in subsection 8, contain toilet facilities;

(2) Contain a sleeping area or bedroom; and

(3) Are shared with another occupant only upon consent of both occupants.

(c) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:

(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;

(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;

(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and his personal choice of lifestyle;

(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's need for autonomy and the right to make decisions regarding his own life;

(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;

(6) The facility is designed to minimize and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and

(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.

8. The Health Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility licensed as a residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single-family dwelling, if the Health Division finds that:

(a) Strict application of that requirement would result in economic hardship to the facility requesting the exception; and

(b) The exception, if granted, would not:

(1) Cause substantial detriment to the health or welfare of any resident of the facility;

(2) Result in more than two residents sharing a toilet facility; or

(3) Otherwise impair substantially the purpose of that requirement.

9. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;

(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;

(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and

(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.

10. The regulations governing the licensing and operation of facilities for transitional living for released offenders must provide for the licensure of at least three different types of facilities, including, without limitation:

(a) Facilities that only provide a housing and living environment;

(b) Facilities that provide or arrange for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; and

(c) Facilities that provide or arrange for the provision of alcohol and drug abuse programs, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

➔ *The regulations must provide that if a facility was originally constructed as a single-family dwelling, the facility must not be authorized for more than eight beds.*

11. As used in this section, "living unit" means an individual private accommodation designated for a resident within the facility.

Sec. 10. The amendatory provisions of:

1. Section 4 of this act apply to any person who is granted probation or a suspension of sentence before, on or after October 1, 2007;
2. Section 5 of this act apply to any person placed under a program of lifetime supervision before, on or after October 1, 2007; and
3. Sections 6 and 7 of this act apply to any person released on parole before, on or after October 1, 2007.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 366.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 545.

"SUMMARY—~~[Prohibits]~~ *Limits the authority of the Department of Wildlife ~~[from exercising jurisdiction over animal husbandry relating to animals intended to produce]~~ over Australian red claw crayfish raised for sale as food for human consumption.* (BDR 45-1328)"

"AN ACT relating to wildlife; ~~[prohibiting]~~ *limiting the authority of the Department of Wildlife ~~[from exercising jurisdiction over animal husbandry relating to animals intended to produce]~~ over Australian red claw crayfish that is raised in captivity on private property for sale as food for human consumption; prohibiting a person from importing, possessing or propagating freshwater lobster without a permit from the State Board of Agriculture; providing a penalty; and providing other matters properly relating thereto."*

Legislative Counsel's Digest:

Existing law provides the Department of Wildlife with the jurisdiction to administer the wildlife laws of this State. (NRS 501.331) This bill ~~prohibits the Department from exercising its jurisdiction or administering the wildlife laws of this State if the exercise of such jurisdiction or the administration of such laws would prohibit or interfere with a person's use of established methods of animal husbandry relating to any animal intended to produce]~~ *limits the authority of the Department over Australian red claw crayfish that is raised in captivity on private property for sale as food for human consumption.*

Existing law makes it unlawful for a person to import, possess or propagate any alternative livestock in this State without a permit issued by the State Board of Agriculture. (NRS 576.129) This bill imposes a similar restriction upon the importation, possession or propagation of Australian red claw crayfish.

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

Delete existing sections 1 and 2 of this bill and replace with the following new sections 1 through 12:

Section 1. Chapter 501 of NRS is hereby amended by adding thereto a new section to read as follows:

As used in this title, "freshwater lobster" means Australian red claw crayfish (*Cherax quadricarinatus*) that is raised in captivity on private property for sale as food for human consumption.

Sec. 2. NRS 501.379 is hereby amended to read as follows:

501.379 1. Except as otherwise provided in this section:

(a) It is unlawful for any person to sell or expose for sale, to barter, trade or purchase or to attempt to sell, barter, trade or purchase any species of wildlife, or parts thereof, except as otherwise provided in this title or in a regulation of the Commission.

(b) The importation and sale of products made from the meat of game mammals, game birds or game amphibians raised in captivity is not prohibited if the importation is from a licensed commercial breeder or commercial processor.

2. The provisions of this section do not apply to freshwater lobster or to alternative livestock and products made therefrom.

Sec. 3. NRS 503.590 is hereby amended to read as follows:

503.590 1. Except as otherwise provided in this section, a person may maintain a noncommercial collection of legally obtained live wildlife if:

(a) Such a collection is not maintained for public display nor as a part of or adjunct to any commercial establishment; and

(b) The wildlife contained in such a collection is of a species which may be possessed in accordance with regulations adopted by the Commission pursuant to subsection 2 of NRS 504.295.

2. The Commission may adopt reasonable regulations establishing minimum standards for the fencing or containment of any collection of wildlife.

3. The provisions of this section do not apply to freshwater lobster or to alternative livestock and products made therefrom.

Sec. 4. NRS 503.597 is hereby amended to read as follows:

503.597 1. Except as otherwise provided in this section, it is unlawful, except by the written consent and approval of the Department, for any person at anytime to receive, bring or have brought or shipped into this State, or remove from one stream or body of water in this State to any other, or from one portion of the State to any other, or to any other state, any aquatic life or wildlife, or any spawn, eggs or young of any of them.

2. The Department shall require an applicant to conduct an investigation to confirm that such an introduction or removal will not be detrimental to the wildlife or the habitat of wildlife in this State. Written consent and approval of the Department may be given only if the results of the investigation prove

that the introduction, removal or importation will not be detrimental to existing aquatic life or wildlife, or any spawn, eggs or young of any of them.

3. The Commission may through appropriate regulation provide for the inspection of such introduced or removed creatures and the inspection fees therefor.

4. The Commission may adopt regulations to prohibit the importation, transportation or possession of any species of wildlife which the Commission deems to be detrimental to the wildlife or the habitat of the wildlife in this State.

5. The provisions of this section do not apply to freshwater lobster or to alternative livestock and products made therefrom.

Sec. 5. NRS 504.245 is hereby amended to read as follows:

504.245 1. Any species of wildlife, including freshwater lobster and alternative livestock, that:

(a) Is released from confinement without the prior written authorization of the Department; or

(b) Escapes from the possessor's control,

➡ may be captured, seized or destroyed by the Department if the Department determines that such actions are necessary to protect wildlife and the habitat of wildlife in this State.

2. The owner or possessor of such wildlife:

(a) Shall report its escape immediately after receiving knowledge of the escape; and

(b) Is liable for the costs incurred by the Department to capture, maintain and dispose of the wildlife and for any damage caused by the wildlife.

3. The Department is not liable for any damage to wildlife, or caused by wildlife, in carrying out the provisions of this section.

Sec. 6. NRS 504.295 is hereby amended to read as follows:

504.295 1. Except as otherwise provided in this section and NRS 503.590, or unless otherwise specified by a regulation adopted by the Commission, no person may:

(a) Possess any live wildlife unless he is licensed by the Department to do so.

(b) Capture live wildlife in this State to stock a commercial or noncommercial wildlife facility.

(c) Possess or release from confinement any mammal for the purposes of hunting.

2. The Commission shall adopt regulations for the possession of live wildlife. The regulations must set forth the species of wildlife which may be possessed and propagated, and provide for the inspection by the Department of any related facilities.

3. In accordance with the regulations of the Commission, the Department may issue commercial and noncommercial licenses for the possession of live wildlife upon receipt of the applicable fee.

4. The provisions of this section do not apply to freshwater lobster or to alternative livestock and products made therefrom.

Sec. 7. Chapter 576 of NRS is hereby amended by adding thereto a new section to read as follows:

"Freshwater lobster" has the meaning ascribed to it in section 1 of this act.

Sec. 8. NRS 576.010 is hereby amended to read as follows:

576.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 576.0115 to 576.018, inclusive, and section 7 of this act have the meanings ascribed to them in those sections.

Sec. 9. NRS 576.129 is hereby amended to read as follows:

576.129 1. It is unlawful for any person to import, possess or propagate any freshwater lobster or alternative livestock unless he first obtains from the State Board of Agriculture a permit that authorizes him to do so.

2. The State Board of Agriculture shall adopt regulations for the importation, possession and propagation of alternative livestock. The regulations must set forth requirements for:

(a) Facilities used to confine alternative livestock, including minimum requirements for fencing to prevent the escape of alternative livestock.

(b) The genetic testing of alternative livestock.

(c) Keeping and maintaining records related to the importation, transfer, possession and propagation of alternative livestock.

(d) Identifying and marking alternative livestock.

(e) Marketing alternative livestock.

(f) The filing of any bonds which may be required by the State Board of Agriculture.

3. In adopting the regulations required by subsection 2, the State Board of Agriculture shall consult with the Department of Wildlife and the Board of Wildlife Commissioners concerning the provisions that are necessary to protect wildlife in this state and in the areas designated as areas of special concern by the Board of Wildlife Commissioners pursuant to NRS 501.181.

4. The State Board of Agriculture shall adopt regulations for the importation, possession and propagation of freshwater lobster. The regulations must set forth requirements for:

(a) Facilities used to confine freshwater lobster, including the minimum requirements for any tank or pond for the freshwater lobster.

(b) Keeping and maintaining records related to the importation, transfer, possession and propagation of freshwater lobster.

(c) Marketing freshwater lobster.

(d) The filing of any bonds which may be required by the State Board of Agriculture.

5. The State Board of Agriculture shall establish by regulation a schedule of fees required to be paid for a permit issued pursuant to this section. The fees established must not exceed the approximate cost to the Board of carrying out the provisions of this section.

Sec. 10. NRS 576.131 is hereby amended to read as follows:

576.131 1. An owner of freshwater lobster or alternative livestock may request assistance from the State Department of Agriculture, the Department of Wildlife and local law enforcement agencies to recapture any freshwater lobster or alternative livestock that has escaped from confinement.

2. Any freshwater lobster or alternative livestock that is recaptured may be impounded at a suitable facility until sufficient repairs or improvements are made to the owner's facility to ensure that the escape of the freshwater lobster or alternative livestock does not recur.

3. The owner of the freshwater lobster or alternative livestock is liable for:

(a) The costs incurred by the State Department of Agriculture, the Department of Wildlife and any local law enforcement agency to recapture the freshwater lobster or alternative livestock;

(b) The costs of impounding the freshwater lobster or alternative livestock; and

(c) Any damages caused by the freshwater lobster or alternative livestock during the escape.

Sec. 11. 1. Any commercial or noncommercial license for the possession of freshwater lobster issued by the Department of Wildlife remains valid until the earlier of:

(a) The date the State Board of Agriculture issues to the holder of the license a permit for the importation, possession or propagation of freshwater lobster pursuant to NRS 576.129, as amended by section 9 of this act; or

(b) June 1, 2008.

2. As used in this section, "freshwater lobster" means Australian red claw crayfish (Cherax quadricarinatus) that is raised in captivity on private property for sale as food for human consumption.

Sec. 12. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations by the State Board of Agriculture pursuant to section 9 of this act; and

2. On January 1, 2008, for all other purposes.

Senator Beers moved the adoption of the amendment.

Remarks by Senator Beers.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 374.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 411.

"SUMMARY—Makes certain changes concerning tax increment areas. (BDR 22-816)"

"AN ACT relating to tax increment areas; authorizing the creation of tax increment areas by cooperative agreement between a ~~county or~~ city and the

Board of Regents of the University of Nevada in certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the creation of tax increment areas by the governing body of a county or city. (NRS 278C.150) The governing body may dedicate the revenues from the property tax imposed in a tax increment area to the financing, acquisition, improvement or equipment of certain specific undertakings, including a drainage and flood control project, overpass project, sewerage project, street project, underpass project or water project. (NRS 278C.140) Section 1 of this bill authorizes the creation of a tax increment area by cooperative agreement between ~~the city or county~~ a city and the Board of Regents of the University of Nevada in certain circumstances. Section 2 of this bill provides that for the purposes of a tax increment area created by such a cooperative agreement, in addition to other undertakings, an undertaking may include ~~[- (1) any project]~~ certain projects for infrastructure ~~[which is necessary or desirable for the development of any campus of the Nevada System of Higher Education that is located wholly or partially within the tax increment area or within 1 mile of that campus; (2) a capital project for any campus of the Nevada System of Higher Education that is located wholly or partially within the tax increment area; (3) certain housing projects within the tax increment area or within 1 mile of the tax increment area; or (4) certain commercial projects approved by the Board of Regents that provide, or that provide land or buildings for, certain businesses.]~~ and capital projects for the principal campus of the Nevada State College.

Existing law provides that when real estate or a portion of real estate which is exempt from taxation is leased, loaned or otherwise made available to and used by a person or entity in connection with a business conducted for profit, or as a residence, that real estate is subject to a certain amount of taxation, except in certain circumstances, including when it involves property of any state-supported educational institution. (NRS 361.157) Section 3 of this bill excludes from that exception any part of such property located within a tax increment area created ~~[by cooperative agreement between the Nevada System of Higher Education and a city or county.]~~ pursuant to this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 278C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A tax increment area ~~[which includes any part of a campus of the Nevada System of Higher Education within its boundaries]~~ may be created pursuant to this section by a cooperative agreement between ~~[the city or county creating the tax increment area]~~ a city in which the principal campus of the Nevada State College is located or intended to be located and the Nevada System of Higher Education ~~[-]~~ , if the boundaries of the tax increment area include only land:

(a) On which the principal campus of the Nevada State College is located or intended to be located; and

(b) Which:

(1) Consists of not more than 509 acres;

(2) Was transferred by the city creating the tax increment area to the Nevada System of Higher Education for the use of the Nevada State College;

(3) Has never been subject to property taxation; and

(4) The Nevada System of Higher Education has agreed to continue to own for the term of the tax increment area.

↪ The provisions of NRS 278C.160, subsections 4, 6 and 7 of NRS 278C.170, NRS 278C.220, paragraphs (c) and (d) of subsection 1 of NRS 278C.250 and paragraph (d) of subsection 3 of NRS 278C.250 do not apply to a tax increment area created pursuant to this section, but such a tax increment area ~~created pursuant to this subsection~~ is subject to the provisions of subsections 2 to 9, inclusive.

2. Whenever the governing body of a ~~municipality~~ city in which the principal campus of the Nevada State College is located or intended to be located and the Board of Regents of the University of Nevada determine that the interests of the ~~municipality~~ city, the Nevada System of Higher Education and the public require an undertaking, the governing body and the Board of Regents may enter into a cooperative agreement pursuant to NRS 277.080 to 277.180, inclusive, which describes by reference to the general types of undertakings authorized pursuant to NRS 278C.140 and the undertakings proposed for the tax increment area, and which contains or refers to an exhibit filed with the clerk of the ~~municipality~~ city and the Secretary of the Board of Regents which contains:

(a) A statement of the last finalized amount of the assessed valuation of the ~~taxable~~ real property within the boundaries of the tax increment area, ~~and the amount of taxes, including, without limitation, the sum of any unpaid taxes, whether or not such taxes are delinquent, resulting from the last taxation of the property, based upon the records of the county assessor and county treasurer;~~ which boundaries must be in compliance with subsection 1, and a statement that, based upon the records of the county treasurer, no property taxes were collected on any of that property, or on any interest therein, during the most recent year for which those records are available; and

(b) A description of the tax increment area or its location, so that the various tracts of taxable real property and any taxable personal property may be identified and determined to be within or without the tax increment area, except that the description need not describe in complete detail each tract of real property proposed to be included within the tax increment area.

3. The governing body may, at any time after the effective date of a cooperative agreement entered into pursuant to ~~subsection 2,~~ this section, adopt a resolution that provisionally orders the undertakings and creation of the tax increment area.

4. The notice of the meeting required pursuant to subsection 3 of NRS 278C.170 must:

(a) Describe by reference the general types of undertakings authorized pursuant to NRS 278C.140 and the undertakings proposed for the tax increment area;

(b) Describe the last finalized amount of the assessed valuation of the ~~taxable~~ real property within the boundaries of the tax increment area, and ~~the amount of taxes, including, without limitation, the sum of any unpaid taxes, whether or not such taxes are delinquent, resulting from the last taxation of the property, based upon the records of the county assessor and county treasurer;~~ state that, based upon the records of the county treasurer, no property taxes were collected on any of that property, or on any interest therein, during the most recent year for which those records are available;

(c) Describe the tax increment area or its location, so that the various tracts of taxable real or personal property may be identified and determined to be within or without the tax increment area; and

(d) State the date, time and place of the meeting described in subsection 1 of NRS 278C.170.

5. If, after considering all properly submitted and relevant written and oral complaints, protests, objections and other relevant comments and after considering any other relevant material, the governing body determines that the undertaking is in the public interest and defines that public interest, the governing body shall determine whether to proceed with the undertaking. If the governing body has ordered any modification to an undertaking and has determined to proceed, the governing body must consult with the Board of Regents to obtain its consent to the proposed modification. When the Board of Regents and the governing body are in agreement on the modification, if any, and a statement of the modification is filed with the clerk, if the governing body wants to proceed with the undertaking, the governing body shall adopt an ordinance in the same manner as any other ordinance:

(a) Overruling all complaints, protests and objections not otherwise acted upon;

(b) Ordering the undertaking;

(c) Describing the tax increment area to which the undertaking pertains; and

(d) Creating a tax increment account for the undertaking.

6. Money deposited in the tax increment account as described in paragraph (b) of subsection 1 of NRS 278C.250 may be used to pay the capital costs of the undertaking directly, in addition to being used to pay the bond requirements of loans, money advanced or indebtedness incurred to finance or refinance an undertaking, and may continue to be used for those purposes until the expiration of the tax increment area pursuant to NRS 278C.300.

7. ~~{The cooperative agreement entered into pursuant to this section may create a separate legal entity with such powers as are delegated to it by the governing body and the Board of Regents in the cooperative agreement.~~

8. The Board of Regents may pledge to any securities it issues under a delegation pursuant to subsection ~~{7.}~~ 8, or irrevocably dedicate to the ~~{municipality or to an entity described in subsection 7}~~ city that will issue securities hereunder, any revenues of the Nevada System of Higher Education derived from the campus of the Nevada System of Higher Education whose boundaries are included in whole or in part in the tax increment area, other than revenues from state appropriations and from student fees, and subject to any covenants or restrictions in any instruments authorizing other securities. Such an irrevocable dedication must be for the term of the securities issued by the ~~{municipality or any entity described in subsection 7}~~ city and any securities refunding those securities and may also extend for the term of the tax increment area.

~~{9.}~~ 8. The ~~{municipality}~~ city may delegate to the Board of Regents ~~for to an entity created pursuant to subsection 7}~~ the authority to issue any security other than a general obligation security which the ~~{municipality}~~ city is authorized to issue pursuant to this chapter, and in connection therewith, may irrevocably dedicate to the Board of Regents ~~for to an entity created pursuant to subsection 7}~~ the revenues that are authorized pursuant to this chapter to be pledged or used to repay those securities, including, without limitation, all money in the tax increment account created pursuant to subsection 5. The irrevocable dedication of any security pursuant to this subsection must be for the term of the security issued by the Nevada System of Higher Education ~~for any entity created pursuant to subsection 7}~~ and any security refunding those securities and may also extend for the term of the tax increment area.

9. If the boundaries of a county school district include a tax increment area created pursuant to this section and the county school district operates a public school on property within the boundaries of that tax increment area, the county school district and the Nevada System of Higher Education shall consult with one another regarding funding for the operating costs of that public school.

Sec. 2. NRS 278C.140 is hereby amended to read as follows:

278C.140 "Undertaking" means any enterprise to acquire, improve or equip, or any combination thereof:

1. In the case of counties:

- (a) A drainage and flood control project, as defined in NRS 244A.027;
- (b) An overpass project, as defined in NRS 244A.037;
- (c) A sewerage project, as defined in NRS 244A.0505;
- (d) A street project, as defined in NRS 244A.053;
- (e) An underpass project, as defined in NRS 244A.055; or
- (f) A water project, as defined in NRS 244A.056.

2. In the case of cities:

(a) A drainage project or flood control project, as defined in NRS 268.682;

(b) An overpass project, as defined in NRS 268.700;

(c) A sewerage project, as defined in NRS 268.714;

(d) A street project, as defined in NRS 268.722;

(e) An underpass project, as defined in NRS 268.726; or

(f) A water project, as defined in NRS 268.728.

3. ~~In the case of a city ~~for county~~ with respect to any tax increment area created pursuant to a cooperative agreement between the city ~~for county~~ and the Nevada System of Higher Education pursuant to section 1 of this act ~~which includes any part of a campus of the Nevada System of Higher Education within its boundaries,~~ in addition to the projects described in ~~subsections 1 and~~ subsection 2:~~

~~(a) A project for any other infrastructure necessary or desirable for the ~~development of any campus of the Nevada System of Higher Education that is located wholly or partially within the tax increment area, or the area that is within 1 mile of that campus,~~ principal campus of the Nevada State College that is approved by the Board of Regents of the University of Nevada; or~~

~~(b) An educational facility or other capital project for ~~any campus of the Nevada System of Higher Education that is located wholly or partially within the tax increment area;~~~~

~~(c) A housing project within the tax increment area or within 1 mile of the tax increment area, including, without limitation, rental housing and owner occupied housing that provides housing for students, faculty and members of the public; or~~

~~(d) A commercial project that provides or that provides land or buildings for, a business that~~

~~(1) Provides goods and services to the Nevada System of Higher Education, students faculty, residents of the tax increment area and other members of the public; or~~

~~(2) Is related to education, research or any other activity undertaken at any campus of the Nevada System of Higher Education that is located wholly or partially within the tax increment area;~~

~~the principal campus of the Nevada State College that is owned by the Nevada System of Higher Education and approved by the Board of Regents of the University of Nevada ~~System of Higher Education.~~~~

Sec. 3. NRS 361.157 is hereby amended to read as follows:

361.157 1. When any real estate or portion of real estate which for any reason is exempt from taxation is leased, loaned or otherwise made available to and used by a natural person, association, partnership or corporation in connection with a business conducted for profit or as a residence, or both, the leasehold interest, possessory interest, beneficial interest or beneficial use of the lessee or user of the property is subject to taxation to the extent the:

(a) Portion of the property leased or used; and

(b) Percentage of time during the fiscal year that the property is leased by the lessee or used by the user, in accordance with NRS 361.2275,

↪ can be segregated and identified. The taxable value of the interest or use must be determined in the manner provided in subsection 3 of NRS 361.227 and in accordance with NRS 361.2275.

2. Subsection 1 does not apply to:

(a) Property located upon a public airport, park, market or fairground, or any property owned by a public airport, unless the property owned by the public airport is not located upon the public airport and the property is leased, loaned or otherwise made available for purposes other than for the purposes of a public airport, including, without limitation, residential, commercial or industrial purposes;

(b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;

(c) Property of any state-supported educational institution ~~§ 5~~, *except any part of such property located within a tax increment area created pursuant to chapter 278 of NRS pursuant to a cooperative agreement between the Nevada System of Higher Education and a city or county;* section 1 of this act;

(d) Property leased or otherwise made available to and used by a natural person, private association, private corporation, municipal corporation, quasi-municipal corporation or a political subdivision under the provisions of the Taylor Grazing Act or by the United States Forest Service or the Bureau of Reclamation of the United States Department of the Interior;

(e) Property of any Indian or of any Indian tribe, band or community which is held in trust by the United States or subject to a restriction against alienation by the United States;

(f) Vending stand locations and facilities operated by blind persons under the auspices of the Bureau of Services to the Blind and Visually Impaired of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation, whether or not the property is owned by the federal, state or a local government;

(g) Leases held by a natural person, corporation, association, municipal corporation, quasi-municipal corporation or political subdivision for development of geothermal resources, but only for resources which have not been put into commercial production;

(h) The use of exempt property that is leased, loaned or made available to a public officer or employee, incident to or in the course of public employment;

(i) A parsonage owned by a recognized religious society or corporation when used exclusively as a parsonage;

(j) Property owned by a charitable or religious organization all, or a portion, of which is made available to and is used as a residence by a natural person in connection with carrying out the activities of the organization;

(k) Property owned by a governmental entity and used to provide shelter at a reduced rate to elderly persons or persons having low incomes;

(l) The occasional rental of meeting rooms or similar facilities for periods of less than 30 consecutive days; or

(m) The use of exempt property to provide day care for children if the day care is provided by a nonprofit organization.

3. Taxes must be assessed to lessees or users of exempt real estate and collected in the same manner as taxes assessed to owners of other real estate, except that taxes due under this section do not become a lien against the property. When due, the taxes constitute a debt due from the lessee or user to the county for which the taxes were assessed and, if unpaid, are recoverable by the county in the proper court of the county.

Senator McGinness moved the adoption of the amendment.

Remarks by Senators McGinness and Titus.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 376.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 352.

"SUMMARY—Requires the ~~[State Land Use Planning Agency]~~ Division of State Parks of the State Department of Conservation and Natural Resources to prepare a ~~[statewide master plan for the recreational use of land in this State.]~~ comprehensive outdoor recreation plan for a certain designated area. (BDR ~~[26-1009)]~~ S-1009)"

"AN ACT relating to land; requiring the ~~[State Land Use Planning Agency]~~ Division of State Parks of the State Department of Conservation and Natural Resources to prepare a ~~[statewide master]~~ plan for the recreational use of land ~~[in this State;]~~ within a certain area designated by the Division; authorizing the ~~[Agency]~~ Division to carry out the provisions of the ~~[master]~~ plan under certain circumstances; making an appropriation; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, ~~[planning for the use of land is primarily the responsibility of cities, counties and regional planning agencies. State participation in planning for the use of land is generally limited to coordinating information and data and providing assistance to local governmental entities. (NRS 321.640) Existing law designates the Division of State Lands of the State Department of Conservation and Natural Resources as the State Land Use Planning Agency. (NRS 321.700) As part of the statutory duties of the Agency, it is required to develop and make available to cities and counties information that is useful in planning for the use of land by the cities and counties. (NRS 321.720)]~~

~~Section 1 of this bill expands the duties of the Agency by requiring it to prepare a statewide master plan for the recreational use of land and for the identification, creation and maintenance of open spaces. The master plan must include provisions for trails for use by certain off-highway vehicles and must, to the greatest extent practicable, be coordinated with any similar provisions of a land use plan adopted by a city, county or planning agency. Section 1 further authorizes the Agency to enter into an agreement for the construction and maintenance of trails for use by off-highway vehicles.]~~ the Division of State Parks of the State Department of Conservation and Natural Resources is required to prepare and maintain a comprehensive statewide outdoor recreation plan. The plan must include an evaluation of the demand for and supply of outdoor recreation resources and facilities in Nevada and a program for carrying out the plan. (NRS 407.205)

Section 5 of this bill requires the Division to prepare an additional plan which is a comprehensive outdoor recreation plan. The plan is not statewide, but applicable only to a certain area of Clark County, Nevada, designated by the Division. The plan must include all relevant provisions of the comprehensive statewide outdoor recreation plan prepared by the Division and also an analysis of any plans and activities of federal, state or local governmental agencies in the area designated by the Division. In addition, section 5 authorizes the Division to cooperate with all interested persons in preparing the comprehensive outdoor recreation plan and requires the Division to submit a written report concerning its activities to the next regular session of the Legislature.

~~Section 6 of this bill appropriates \$2,500,000 to the Agency.]~~ Section 6 of this bill appropriates \$250,000 to the Division to carry out the provisions of the bill.

WHEREAS, Providing access to a wide range of recreational opportunities is an important activity of federal, state and local governmental entities; and

WHEREAS, Funding for recreational opportunities in this State is available from several sources, including, without limitation, the Southern Nevada Public Land Management Act of 1998, Public Law 105-263, and qualifying to receive any such funding is essential for improving recreational opportunities in this State; and

WHEREAS, The Division of State Parks of the State Department of Conservation and Natural Resources is required to prepare and maintain a comprehensive statewide outdoor recreation plan to qualify to receive funding for certain outdoor recreation projects from the Federal Government; and

WHEREAS, The planning for and development of recreational opportunities in this State, including, without limitation, the development of trails for off-highway vehicles, hiking trails, bike paths, campgrounds and facilities for camping and conservation efforts, involve the use of public and private land, thereby requiring coordination of activities and cooperation

among federal, state and local governmental entities, nonprofit organizations and other entities; and

WHEREAS, Such coordination and cooperation is often essential to ensure compliance with environmental laws such as the National Environmental Policy Act, 42 U.S.C. §§ 4321 et seq.; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[Chapter 321 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The State Land Use Planning Agency shall prepare a statewide master plan for the recreational use of land in this State and the identification, creation and maintenance of open spaces. The master plan must include, without limitation, provisions for identifying, constructing and maintaining trails for use by an off-highway vehicle that is issued a certificate of operation pursuant to NRS 490.070 or for which a certificate of operation is not required pursuant to NRS 490.080.~~

~~2. In preparing a statewide master plan pursuant to this section, the State Land Use Planning Agency shall, to the greatest extent practicable, coordinate the provisions of the master plan with any similar provisions of a plan or part of a plan adopted by a city, county or regional planning agency. Any provision of the master plan that conflicts with the provisions of a plan or part of a plan adopted by a city, county or planning agency must be approved by the city, county or planning agency before the provision may be carried out pursuant to subsection 3.~~

~~3. After preparing a statewide master plan pursuant to this section, the State Land Use Planning Agency may, by contract or other agreement, carry out the master plan or any part of the master plan, including, without limitation, constructing and maintaining any trail for use by an off-highway vehicle as set forth in the master plan. (Deleted by amendment.)~~

Sec. 2. ~~[NRS 321.640 is hereby amended to read as follows:~~

~~321.640 The Legislature hereby finds and declares that:~~

~~1. It is in the public interest to place the primary authority for the planning process with the local governments, which are closest to the people;~~

~~2. Unregulated growth and development of the State will result in harm to the public safety, health, comfort, convenience, resources and general welfare;~~

~~3. The cities of the State have a responsibility for guiding the development of areas within their respective boundaries for the common good, and the counties have similar responsibilities with respect to their unincorporated areas;~~

~~4. City, county, regional and other planning must be done in harmony to ensure the orderly growth and preservation of the State; and~~

~~5. [State] Except as otherwise provided in section 1 of this act, state participation in land use planning should be limited to coordination of information and data, the acquisition and use of federal lands within the~~

~~State, providing land use planning assistance in areas of critical environmental concern when directed by the Governor or requested by local governments, and providing assistance in resolving inconsistencies between the land use plans of local governmental entities when requested to do so by one of the entities.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 321.700 is hereby amended to read as follows:~~

~~321.700 In addition to any other functions assigned to it by law, the Division is hereby designated as the State Land Use Planning Agency for the purpose of carrying out the provisions of NRS 321.640 to 321.770, inclusive, and section 1 of this act, and fulfilling any land use planning requirements arising under federal law.] (Deleted by amendment.)~~

Sec. 4. ~~[NRS 321.750 is hereby amended to read as follows:~~

~~321.750 The Land Use Planning Advisory Council shall:~~

~~1. Advise the Administrator on the development and distribution to cities and counties of information useful to land use planning.~~

~~2. Advise the State Land Use Planning Agency regarding [the]—~~

~~(a) The development of plans and statements of policy pursuant to subsection 1 of NRS 321.7355 [.] ; and~~

~~(b) The preparation of a statewide master plan pursuant to section 1 of this act.] (Deleted by amendment.)~~

Sec. 5. 1. The Division of State Parks of the State Department of Conservation and Natural Resources shall prepare a comprehensive outdoor recreation plan. The Division shall designate an area located within the northeast portion of Clark County, Nevada, as the applicable area for the plan. The area for the plan may include any portion of Lincoln County, Nevada, that is contiguous to that portion of Clark County, Nevada. The plan must include, without limitation:

(a) All provisions of the comprehensive statewide outdoor recreation plan prepared and maintained by the Division pursuant to NRS 407.205 that are applicable or related to the designated area for the comprehensive outdoor recreation plan required pursuant to this section;

(b) A specific review, compilation and suggested revision, if any, of any existing outdoor recreation plan that is prepared for or is applicable to the designated area for the plan required pursuant to this section and any inventories of outdoor recreational facilities and existing or proposed development activities within or affecting the designated area for the plan;

(c) An analysis of any plans or other actions of a federal, state or local governmental agency relating to outdoor recreational activities, facilities and opportunities for members of the public to engage in outdoor recreational activities in the designated area for the plan;

(d) An evaluation of the possible integration of the activities, facilities and opportunities specified in paragraph (c); and

(e) Any other information required by the Division relating to the plan.

2. The Division may:

(a) Cooperate with any person, including, without limitation, any nonprofit organization, any federal, state or local governmental agency or any other entity in preparing and revising the plan required pursuant to this section; and

(b) Apply for and accept any gift or grant of money from any source to assist the Division in preparing or carrying out the provisions of the plan, including, without limitation, the development or construction of any trails for hiking, biking or off-highway vehicles or any campgrounds or other facilities within the designated area for the plan.

3. The Division shall:

(a) Upon request by the Legislative Committee on Public Lands, submit a report to the Committee concerning the progress of the Division in preparing the plan required pursuant to this section and any other actions of the Division in carrying out the provisions of this section, including, without limitation, a statement setting forth the availability and expenditure of the money appropriated pursuant to section 6 of this act; and

(b) On or before February 1, 2009, prepare and submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a written report setting forth:

(1) The provisions of the comprehensive outdoor recreation plan prepared pursuant to this section; and

(2) Any other activities of the Division in carrying out the provisions of this section.

~~[Sec. 5.]~~ Sec. 6. 1. There is hereby appropriated from the State General Fund to the ~~[State Land Use Planning Agency]~~ Division of State Parks of the State Department of Conservation and Natural Resources the sum of ~~[\$2,500,000]~~ \$250,000 to carry out the provisions of section 5 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, 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 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. 6.]~~ Sec. 7. This act becomes effective on July 1, 2007.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 377.

Bill read second time.

The following amendment was proposed by the Committee on Human Resources and Education:

Amendment No. 322.

"SUMMARY—Enacts provisions relating to early intervention services for infants and toddlers with disabilities. (BDR 40-12)"

"AN ACT relating to public health; enacting provisions relating to early intervention services for infants and toddlers with disabilities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The federal Individuals with Disabilities Education Act provides money to states for the education of children with disabilities. (20 U.S.C. §§ 1400 et seq.) Part C of that Act provides money for the provision of services to help infants and toddlers, ages birth through 2 years, who have disabilities or delays in development. (20 U.S.C. §§ 1431 et seq.)

Section 1 of this bill designates the *Office of the Director of the Department of Health and Human Services* as the state agency to cooperate with the Federal Government in the administration of Part C in this State. In administering the program to provide early intervention services to eligible infants and toddlers, the ~~{Department}~~ *Office of the Director* is authorized to contract with private persons and organizations to provide those services. Section ~~{2}~~ 3 of this bill requires the ~~{Department}~~ *Office of the Director* to enter into contracts with private providers who are willing and able to provide those services in an amount equal to the amount of money awarded to private providers in Fiscal Year 2006-2007, plus at least 20 percent of the money budgeted for expenditure by the ~~{Department}~~ *Office of the Director* for providing those services to eligible infants and toddlers in each fiscal year of the 2007-2009 biennium. In addition, in Fiscal Year 2008-2009, the ~~{Department}~~ *Office of the Director* is required to enter into contracts with private providers who are willing and able to provide the early intervention services in an amount equal to the money budgeted for expenditure by the ~~{Department}~~ *Office of the Director* for providing those services to infants and toddlers who initially enter the program on or after July 1, 2008. Section 4 of this bill requires the Office of the Director to contract with an independent consultant to evaluate the private providers who enter into contracts pursuant to this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 442 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~The {Department}~~ *Office of the Director* is hereby designated as the agency of this State to cooperate with the duly constituted federal authorities in the administration of Part C of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1431 et seq., which relates to early intervention services

for infants and toddlers with disabilities, and is authorized to receive and expend all money made available to the Department and the Office of the Director by the Federal Government, the State or its political subdivisions, or from any other source for the purposes provided in this section.

2. ~~The Department~~ Office of the Director is hereby designated as the agency of this State to administer a program to provide early intervention services to an infant or toddler with a disability, and to supervise the administration of those services which are not administered directly by the ~~Department~~ Office of the Director.

3. ~~The Department~~ Office of the Director may award one or more contracts to any person that the ~~Department~~ Director determines to be capable of providing services in a manner that fulfills the goals and objectives of the program.

4. ~~The Department~~ Office of the Director may charge and collect fees for early intervention services provided to an infant or toddler with a disability pursuant to the program in the manner authorized by 34 C.F.R. Part 303.

5. ~~The Department~~ Director may adopt regulations necessary for the administration of the program, including, without limitation, regulations requiring the submission of periodic reports by persons awarded contracts pursuant to subsection 3.

6. The Director shall not delegate the duties assigned to the Director or the Office of the Director pursuant to this section to any other person, division, bureau or office within the Department.

7. As used in this section:

(a) "Early intervention services" has the meaning ascribed to it in 20 U.S.C. § 1432.

(b) "Infant or toddler with a disability" has the meaning ascribed to it in 20 U.S.C. § 1432.

(c) "Office of the Director" means the Office of the Director of the Department.

Sec. 2. NRS 442.005 is hereby amended to read as follows:

442.005 ~~The~~ Except as otherwise provided in section 1 of this act, the State Health Officer and the Health Division shall administer the provisions of this chapter in accordance with the regulations of the State Board of Health and subject to administrative supervision by the Director.

~~Sec. 2.~~ Sec. 3. 1. For the Fiscal Year 2007-2008, the ~~Department~~ Office of the Director shall, to the extent that there are persons who have been determined capable by the ~~Department~~ Director to provide early intervention services to infants and toddlers with disabilities in a manner that fulfills the goals and objectives of the program administered pursuant to section 1 of this act and who are willing to provide such services, enter into contracts with such persons in a total amount equal to the amount of money budgeted for private providers during the Fiscal Year 2006-2007, plus at least 20 percent of the money budgeted for expenditure by the ~~Department~~

Office of the Director during the Fiscal Year 2007-2008, other than for the costs of administration relating to the program, for providing early intervention services to infants and toddlers with disabilities pursuant to the program.

2. For the Fiscal Year 2008-2009, the ~~{Department}~~ Office of the Director shall, to the extent that there are persons who have been determined capable by the ~~{Department}~~ Director to provide early intervention services to infants and toddlers with disabilities in a manner that fulfills the goals and objectives of the program administered pursuant to section 1 of this act and who are willing to provide such services, enter into contracts with such persons in a total amount equal to the amount of money budgeted for private providers during the Fiscal Year 2006-2007, plus at least 20 percent of the money budgeted for expenditure by the ~~{Department}~~ Office of the Director during the Fiscal Year 2008-2009, other than for the costs of administration relating to the program, for providing early intervention services to infants and toddlers with disabilities pursuant to the program.

3. For the Fiscal Year 2008-2009, the ~~{Department}~~ Office of the Director shall, to the extent that there are persons who have been determined capable by the ~~{Department}~~ Director to provide early intervention services to infants and toddlers with disabilities in a manner that fulfills the goals and objectives of the program administered pursuant to section 1 of this act and who are willing to provide such services, enter into contracts with such persons in an amount equal to the money budgeted for expenditure by the ~~{Department}~~ Office of the Director during the Fiscal Year 2008-2009, other than for the costs of administration relating to the program, for providing early intervention services to infants and toddlers with disabilities for whom services from the program are initially requested on or after July 1, 2008.

4. Notwithstanding the provisions of NRS 353.220, the Department is not required to obtain approval of the Interim Finance Committee for revisions to its work program for Budget Account 101-3208 as the result of attrition and the elimination of vacant positions to use money authorized for expenditure for personnel costs to pay for early intervention services provided by persons who contract with the ~~{Department}~~ Office of the Director pursuant to subsection 1 ~~for 2.~~, 2 or 3.

5. Beginning with the fiscal year that begins on July 1, 2007, the Director of the Department shall, at the end of each quarter of each fiscal year of the 2007-2009 biennium, submit to the Interim Finance Committee a report on the activities of the ~~{Department}~~ Office of the Director related to carrying out this section.

6. On or before September 1, 2008, the Director of the Department shall submit to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature a report on the activities of the ~~{Department}~~ Office of the Director related to carrying out this section.

7. As used in this section:

(a) "Department" means the Department of Health and Human Services.

(b) "Early intervention services" has the meaning ascribed to it in 20 U.S.C. § 1432.

(c) "Infant or toddler with a disability" has the meaning ascribed to it in 20 U.S.C. § 1432.

(d) "Office of the Director" means the Office of the Director of the Department.

Sec. 4. 1. The Director of the Department of Health and Human Services shall, on or before July 1, 2008, contract with an independent and qualified consultant to evaluate the services provided by persons who have entered into a contract with the Office of the Director to provide services to infants and toddlers with disabilities pursuant to sections 1 and 3 of this act.

2. The evaluation must consider, without limitation:

(a) The quality of services provided by persons who have entered into contracts with the Office of the Director;

(b) The number of infants or toddlers with disabilities that such persons served;

(c) The level of satisfaction reported by families of infants and toddlers with disabilities who have received services from such persons;

(d) The amount of money allocated to each person who provided services and the cost, as determined in half-hour and one-hour increments, of providing those services; and

(e) The administrative costs of the Office of the Director relating to the program administered pursuant to section 1 of this act.

3. The Office of the Director shall, on or before December 31, 2008:

(a) Make public a copy of the evaluation; and

(b) Submit a copy of the evaluation to the Director of the Legislative Counsel Bureau, for transmission to the next regular session of the Legislature, and any other interested persons deemed appropriate by the Director of the Department.

~~[Sec. 3.]~~ Sec. 5. This act becomes effective on July 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 393.

Bill read second time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 210.

"SUMMARY—Makes various changes concerning transportation. (BDR 43-109)"

"AN ACT relating to transportation; ~~revising provisions governing the registration of certain heavy motor vehicles; abolishing the Transportation~~

~~Services Authority; transferring the duties and responsibilities related to motor carriers and the storage of household goods and effects from the Transportation Services Authority to the Public Utilities Commission of Nevada; revising provisions governing sanctions for certain violations by taxicab drivers;}~~ requiring employees of the Nevada Transportation Authority to carry identification and wear specified clothing; requiring certain employees of the Authority to receive certain training; providing for an investigation, hearing and appeals process for complaints against an employee of the Authority; changing the name of the "Transportation Services Authority" to the "Nevada Transportation Authority"; requiring the Authority to appoint a Deputy Commissioner; providing the qualifications and duties of the Deputy Commissioner; prohibiting a member of the Authority from taking a position within a regulated industry or business for 1 year after service on the Authority; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~{ Sections 1, 5, 54 and 60-70 of this bill abolish the Transportation Services Authority, transfer its duties and responsibilities to the Public Utilities Commission of Nevada and remove the authority to regulate brokers of regulated services.~~

~~Under existing law, motor vehicles must be registered for a period of 12 consecutive months beginning the day after the first registration by the owner in this State. (NRS 482.206) Sections 2-4 of this bill provide that motor vehicles with a declared gross weight in excess of 26,000 pounds must be registered in accordance with regulations adopted by the Department of Motor Vehicles.~~

~~Section 56 of this bill transfers, from the Transportation Services Authority to the district court for the county in which the alleged act occurred, the authority to hear an appeal of the final decision of the Taxicab Authority. (NRS 706.8819) Section 58 of this bill adds a third violation of NRS 706.8846, which prohibits a taxicab driver from committing certain acts related to a passenger's destination, to the list of factors which may be considered when determining whether a person should be issued a permit as a taxicab driver. (NRS 706.8841) Section 59 of this bill increases the sanction for a third violation of NRS 706.8846. (NRS 706.8848)}~~

Under existing law, the Transportation Services Authority regulates fully regulated carriers, operators of tow cars and brokers of regulated services as provided for in chapter 706 of NRS. (NRS 706.151) Sections 11-13 and 16 of this bill change the name of the Transportation Services Authority to the Nevada Transportation Authority.

Section 5 of this bill requires employees of the Authority to carry proper identification and wear clothing specified by the Deputy Commissioner of the Authority. Section 6 of this bill requires the Authority to adopt regulations specifying the training which its compliance enforcement officers must receive. Section 7 of this bill requires an investigation and hearing when a

written complaint is received against an employee of the Authority and provides for an appeal process for the complainant and employee. The appeal process includes a second investigation, which must be conducted by the Investigation Division of the Department of Public Safety.

Existing law allows the Authority to appoint a Deputy and employ other persons as needed. (NRS 706.176) Section 15 of this bill requires the Authority to appoint a Deputy Commissioner and sets forth the qualifications and duties for the position. Section 15 also requires the Authority to employ compliance enforcement officers and sets forth the duties for those positions.

Existing law prohibits certain persons who have worked for certain agencies of the State from being employed in certain fields or businesses for 1 year after they cease working for the State. (NRS 281.236) Section 17 of this bill expands that prohibition to members of the Authority.

Existing law provides that an employee designated as an inspector or as Manager of Transportation by the Authority is a peace officer and has police powers. (NRS 289.320) Section 18 of this bill amends this provision to apply only to inspectors.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Delete existing sections 1 through 70 of this bill and replace with the following new sections 1 through 21:

Section 1. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. "Chairman" means the person designated as Chairman of the Authority by the Governor pursuant to NRS 706.1512.

Sec. 3. "Compliance enforcement officer" means a person employed pursuant to NRS 706.176 whose duties include enforcing certain state statutes and regulations pertaining to motor carriers.

Sec. 4. "Deputy Commissioner" means the person appointed as Deputy Commissioner of the Authority pursuant to NRS 706.176.

Sec. 5. An employee of the Authority who enforces any provision of this chapter or regulations adopted pursuant thereto while on duty shall carry on his person proper identification and wear clothing that identifies him as an employee of the Authority as determined by the Deputy Commissioner.

Sec. 6. The Authority shall adopt regulations setting forth the training which a compliance enforcement officer employed by the Authority pursuant to NRS 706.176 must complete, including, without limitation, training in commercial vehicle safety inspections provided by the Nevada Highway Patrol.

Sec. 7. 1. Upon receipt of a written complaint against an employee of the Authority acting in the course of his employment, the Deputy Commissioner shall conduct an investigation. The complainant and the employee against whom the complaint was made must be notified of the pending investigation. Upon completion of the investigation, the Deputy Commissioner shall submit to the Chairman a written report of his findings,

including a written recommendation to the Chairman concerning the disposition of the complaint.

2. The Chairman shall review the report and, after consulting with the other members of the Authority, decide if any action should be taken or if the complaint should be dismissed. If the Chairman determines that:

(a) The complaint should be dismissed, the Deputy Commissioner shall notify, by certified mail, the complainant and the employee against whom the complaint was made and provide the complainant with an opportunity to respond; or

(b) Action should be taken against the employee, the Deputy Commissioner shall:

(1) Notify, by certified mail, the complainant and the employee against whom the complaint was made;

(2) Send a copy of the complaint to the employee; and

(3) Provide the employee with an opportunity to respond.

3. The employee or complainant must file a response to the determination of the Chairman within 30 days after the date on which the notice was mailed. Within 20 days after receiving the response of the complainant or the employee against whom the complaint was made, the Deputy Commissioner shall schedule the matter for hearing before the Chairman and other members of the Authority and give notice to the complainant and employee of the date, time and place of the hearing.

4. Within 10 days after the date of the hearing, the Chairman shall issue a written order regarding his decision made in consultation with the other members of the Authority before whom the hearing was held as to the disposition of the complaint. A copy of the written order must be delivered to the complainant and the employee. Within 10 days after receiving a copy of the order, the complainant or the employee may appeal the decision to the Authority.

5. Upon receipt of a notice of appeal, the Deputy Commissioner shall forward the complaint to the Investigation Division of the Department of Public Safety. The Investigation Division shall conduct a second investigation. Upon completion of the investigation, the Investigation Division shall submit to the Chairman a written report of its findings, including a written recommendation to the Chairman concerning the disposition of the complaint.

6. The Chairman shall review the report and, after consulting with the other members of the Authority, issue an order affirming, modifying or reversing the initial order.

7. The complainant and employee must be notified in writing, by certified mail, of the final decision within 10 days after the order is issued.

8. The Authority shall adopt regulations to carry out the provisions of this section.

Sec. 8. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, and sections 2 to 7, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, and sections 2, 3 and 4 of this act have the meanings ascribed to them in those sections.

Sec. 9. NRS 706.018 is hereby amended to read as follows:

706.018 "Authority" means the Nevada Transportation ~~[Services]~~ Authority created pursuant to NRS 706.1511.

Sec. 10. NRS 706.151 is hereby amended to read as follows:

706.151 1. It is hereby declared to be the purpose and policy of the Legislature in enacting this chapter:

(a) Except to the extent otherwise provided in NRS 706.881 to 706.885, inclusive, and sections 2 to 7, inclusive, of this act, to confer upon the Authority the power and to make it the duty of the Authority to regulate fully regulated carriers, operators of tow cars and brokers of regulated services to the extent provided in this chapter and to confer upon the Department of Motor Vehicles the power to license all motor carriers and to make it the duty of the Department of Motor Vehicles and the Department of Public Safety to enforce the provisions of this chapter and the regulations adopted by the Authority pursuant to it, to relieve the undue burdens on the highways arising by reason of the use of the highways by vehicles in a gainful occupation thereon.

(b) To provide for reasonable compensation for the use of the highways in gainful occupations, and enable the State of Nevada, by using license fees, to provide for the proper construction, maintenance and repair thereof, and thereby protect the safety and welfare of the traveling and shipping public in their use of the highways.

(c) To provide for fair and impartial regulation, to promote safe, adequate, economical and efficient service and to foster sound economic conditions in motor transportation.

(d) To encourage the establishment and maintenance of reasonable charges for:

(1) Intrastate transportation by fully regulated carriers; and

(2) Towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle, ➤ without unjust discriminations against or undue preferences or advantages being given to any motor carrier or applicant for a certificate of public convenience and necessity.

(e) To discourage any practices which would tend to increase or create competition that may be detrimental to the traveling and shipping public or the motor carrier business within this State.

2. All of the provisions of this chapter must be administered and enforced with a view to carrying out the declaration of policy contained in this section.

Sec. 11. NRS 706.1511 is hereby amended to read as follows:

706.1511 1. The Nevada Transportation ~~[Services]~~ Authority is hereby created.

2. The Authority consists of three members appointed by the Governor. After the initial term each member shall serve a term of 4 years.

3. The Governor shall appoint to the Authority members who have at least 2 years of experience in one or more of the following fields:

- (a) Accounting.
- (b) Business administration.
- (c) Economics.
- (d) Administrative law.
- (e) Transportation.
- (f) Professional engineering.

↪ At least one but not more than two of the members appointed must be residents of Clark County.

4. Not more than two of the members may be:

- (a) Members of the same political party.
- (b) From the same field of experience.

5. All of the members must be persons who are independent of the industries regulated by the Authority. No elected officer of this State or any political subdivision is eligible for appointment.

6. The members of the Authority shall give their entire time to the business of the Authority and shall not pursue any other business or vocation or hold any other office of profit.

7. Each member of the Authority serves at the pleasure of the Governor.

Sec. 12. NRS 706.1513 is hereby amended to read as follows:

706.1513 The Authority may sue and be sued in the name of the Nevada Transportation ~~[Services]~~ Authority.

Sec. 13. NRS 706.1516 is hereby amended to read as follows:

706.1516 1. The Nevada Transportation ~~[Services]~~ Authority Regulatory Fund is hereby created as a special revenue fund. All money collected by the Authority pursuant to law must be deposited in the State Treasury for credit to the Fund.

2. Money in the Fund may be used only to defray the costs of:

(a) Maintaining staff and equipment needed to regulate adequately persons subject to the jurisdiction of the Authority.

(b) Participating in all proceedings relevant to the jurisdiction of the Authority.

(c) Audits, inspections, investigations, publication of notices, reports and retaining consultants connected with that maintenance and participation.

(d) The salaries, travel expenses and subsistence allowances of the members of the Authority.

3. All claims against the Fund must be paid as other claims against the State are paid.

4. The Authority must furnish upon request a statement showing the balance remaining in the Fund as of the close of the preceding fiscal year.

Sec. 14. NRS 706.1715 is hereby amended to read as follows:

706.1715 1. The Attorney General shall:

(a) Act as counsel and attorney for the Authority in all actions, proceedings and hearings.

(b) Prosecute in the name of the *Nevada* Transportation ~~[Services]~~ Authority all civil actions for the enforcement of this chapter and for the recovery of any penalty or forfeiture provided for therein.

(c) Generally aid the Authority in the performance of its duties and the enforcement of this chapter.

2. The Attorney General or any district attorney may prosecute any violation of this chapter or chapter 712 of NRS for which a criminal penalty is provided.

Sec. 15. NRS 706.176 is hereby amended to read as follows:

706.176 1. The Authority ~~may~~

~~1. Appoint a Deputy who serves in the unclassified service of the State.~~

~~2. Employ] shall appoint a Deputy Commissioner who:~~

(a) Must be knowledgeable and experienced in public administration and fiscal management;

(b) Must be knowledgeable in the areas of motor carrier regulation by the Authority; and

(c) Must be independent of and have no pecuniary interest in any entity regulated by the Authority.

2. The Deputy Commissioner shall:

(a) Serve as Chief Financial Officer for the Authority and is responsible for directing the daily operation of the Authority, including, without limitation:

(1) Budget preparation;

(2) Administration;

(3) Human resources;

(4) Purchases and acquisitions made by the Authority; and

(5) Contracts and leases entered into by the Authority;

(b) Develop and implement policies and procedures to ensure the efficient operation of the Authority;

(c) Oversee:

(1) The review of applications for employment;

(2) Docketing procedures; and

(3) Compliance with and enforcement of State statutes and regulations pertaining to motor carriers which are regulated by the Authority; and

(d) Authenticate documents and serve as custodian of all agency records.

3. The Deputy Commissioner is in the unclassified service of the State.

4. The Authority shall employ compliance enforcement officers whose duties shall include, without limitation, enforcement activities to ensure motor carriers are operating in compliance with State statutes and regulations, conducting operational inspections of motor carriers and investigating complaints against motor carriers.

5. The Authority may employ any other such other personnel as may be necessary.

Sec. 16. NRS 232.510 is hereby amended to read as follows:

232.510 1. The Department of Business and Industry is hereby created.

2. The Department consists of a Director and the following:

- (a) Consumer Affairs Division.
- (b) Division of Financial Institutions.
- (c) Housing Division.
- (d) Manufactured Housing Division.
- (e) Real Estate Division.
- (f) Division of Insurance.
- (g) Division of Industrial Relations.
- (h) Office of Labor Commissioner.
- (i) Taxicab Authority.
- (j) Nevada Athletic Commission.
- (k) Office of the Nevada Attorney for Injured Workers.
- (l) Nevada Transportation ~~[Services]~~ Authority.
- (m) Division of Mortgage Lending.

(n) Any other office, commission, board, agency or entity created or placed within the Department pursuant to a specific statute, the budget approved by the Legislature or an executive order, or an entity whose budget or activities have been placed within the control of the Department by a specific statute.

Sec. 17. NRS 281.236 is hereby amended to read as follows:

281.236 1. A public utility or parent organization or subsidiary of a public utility shall not employ a former member of the Public Utilities Commission of Nevada for 1 year after the termination of his service on the Commission.

2. A person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 463 of NRS shall not employ a former member of the State Gaming Control Board or the Nevada Gaming Commission for 1 year after the termination of the member's service on the Board or Commission.

3. A business or industry governed by chapter 706 or 712 of NRS or regulations adopted pursuant thereto shall not employ a former member of the Nevada Transportation Authority, appointed pursuant to NRS 706.1511, for 1 year after the termination of the member's service on the Authority.

4. In addition to the prohibitions set forth in subsections 1 and 2, a business or industry whose activities are governed by regulations adopted by a department, division or other agency of the Executive Branch of government shall not, except as otherwise provided in subsection ~~[4.]~~ 5, employ a former public officer or employee of the agency, except a clerical employee, for 1 year after the termination of his service or period of employment if:

(a) His principal duties included the formulation of policy contained in the regulations governing the business or industry;

(b) During the immediately preceding year he directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry which might, but for this section, employ him; or

(c) As a result of his governmental service or employment, he possesses knowledge of the trade secrets of a direct business competitor.

~~[4.]~~ 5. A public officer or employee may request the Commission on Ethics to apply the relevant facts in his case to the provisions of subsection ~~[3.]~~ 4 and determine whether relief from the strict application of the provisions is proper. If the Commission on Ethics determines that relief from the strict application of the provisions of subsection ~~[3.]~~ 4 is not contrary to:

(a) The best interests of the public;

(b) The continued integrity of State Government; and

(c) The code of ethical standards prescribed in NRS 281.481,

→ it may issue an opinion to that effect and grant such relief. The opinion of the Commission on Ethics in such a case is subject to judicial review.

~~[5.]~~ 6. As used in this section, "regulation" has the meaning ascribed to it in NRS 233B.038.

Sec. 18. NRS 289.320 is hereby amended to read as follows:

289.320 An employee of the Nevada Transportation ~~[Services]~~ Authority whom it designates as an inspector ~~[or as Manager of Transportation]~~ is a peace officer and has police power for the enforcement of the provisions of:

1. Chapters 706 and 712 of NRS and all regulations of the Nevada Transportation ~~[Services]~~ Authority or the Department of Motor Vehicles pertaining thereto; and

2. Chapter 482 of NRS and NRS 483.230, 483.350 and 483.530 to 483.620, inclusive, for the purposes of carrying out the provisions of chapter 706 of NRS.

Sec. 19. On October 1, 2007, the State Controller shall transfer all assets and liabilities from the Transportation Services Authority Regulatory Fund to the Nevada Transportation Authority Regulatory Fund created pursuant to section 11 of this act.

Sec. 20. The Legislative Counsel shall:

1. In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

2. In preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

Sec. 21. This act becomes effective upon passage and approval for the purpose of adopting regulations and conducting any preliminary activities necessary to ensure that the provisions of this act are carried out in an orderly fashion and on October 1, 2007, for all other purposes.

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 401.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 464.

"SUMMARY—~~[Eliminating the deadline for registering to vote in an election.]~~ *Requiring the Secretary of State to report certain information concerning elections to the Legislature.* (BDR 24-248)"

"AN ACT relating to elections; ~~[eliminating the deadline for registering to vote in an election;]~~ *requiring each county clerk to collect certain information regarding elections and to submit that information to the Secretary of State; requiring the Secretary of State to compile the information collected from the county clerks into a report to be submitted to the Legislature;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Existing law provides that the period for registering to vote at an election ends at 9 p.m. on the third Tuesday preceding an election. For the period beginning on the fifth Sunday preceding an election and ending on the third Tuesday preceding an election, an elector may register to vote only by appearing in person at the office of the county clerk. (NRS 293.560) This bill eliminates the deadline for registering to vote for an election and provides that a person may register to vote at the office of the county or city clerk from the period beginning on the fifth Sunday preceding an election until the polls close on election day.]~~ *This bill requires the Secretary of State to compile and submit to the Legislature a report concerning each election. Each county clerk is required to collect information on each election regarding uncounted ballots, malfunctions of mechanical voting machines, unopened polling places, challenges to voter eligibility, complaints regarding ballots cast by mail, election audits and provisional ballots. Each county clerk must submit the collected information to the Secretary of State within 60 days after each election. The Secretary of State must compile the information submitted by the county clerks and collected by the Secretary of State from political parties and through the use of his website into a report to be submitted to each regular session of the Legislature.*

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Delete existing sections 1 through 11 of this bill and replace with the following new section 1:

Section 1. Chapter 293 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each county clerk shall collect the following information regarding each primary and general election, on a form provided by the Secretary of State and made available at each polling place in the county, each polling place for early voting in the county, the office of the county clerk and any other location deemed appropriate by the Secretary of State:

(a) The number of ballots that have been discarded or for any reason not included in the final canvass of votes, along with an explanation for the exclusion of each such ballot from the final canvass of votes.

(b) A report on each malfunction of any mechanical voting system, including, without limitation:

(1) Any known reason for the malfunction;

(2) The length of time during which the mechanical voting system could not be used;

(3) Any remedy for the malfunction which was used at the time of the malfunction; and

(4) Any effect the malfunction had on the election process.

(c) A list of each polling place not open during the time prescribed pursuant to NRS 293.273 and an account explaining why each such polling place was not open during the time prescribed pursuant to NRS 293.273.

(d) A description of each challenge made to the eligibility of a voter pursuant to NRS 293.303 and the result of each such challenge.

(e) A description of each complaint regarding a ballot cast by mail filed with the county clerk and the resolution, if any, of the complaint.

(f) The results of any audit of election procedures and practices conducted pursuant to regulations adopted by the Secretary of State pursuant to this chapter.

(g) The number of provisional ballots cast and the reason for the casting of each provisional ballot.

2. Each county clerk shall submit to the Secretary of State, on a form provided by the Secretary of State, the information collected pursuant to subsection 1 not more than 60 days after each primary and general election.

3. The Secretary of State may contact any political party and request information to assist in the investigation of any allegation of voter intimidation.

4. The Secretary of State shall establish and maintain an Internet website pursuant to which he shall solicit and collect voter comments regarding election processes.

5. The Secretary of State shall compile the information and comments collected pursuant to this section into a report that he shall submit to the Director of the Legislative Counsel Bureau for transmission to the

Legislature not later than 30 days before the start of each regular session of the Legislature.

6. The Secretary of State may make the report required pursuant to subsection 5 available on an Internet website established and maintained by the Secretary of State.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 412.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 195.

"SUMMARY—Makes various changes regarding health care. (BDR 54-540)"

"AN ACT relating to health care; revising the method of selecting certain professionals for various boards related to health care; creating a new type of license for practicing medicine; changing the requirements for a license by endorsement to practice medicine; providing new requirements for certain nursing instructors; enacting the Nurse Licensure Compact; requiring the State Board of Nursing to pass regulations required for implementation of the Nurse Licensure Compact; providing two new types of licenses for osteopathic medicine; providing a new type of license as a dispensing optician; providing in statute for the election of officers for the State Board of Physical Therapy Examiners; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides methods of selecting certain persons for various boards related to health care. (NRS 630.060, 630A.110, 631.130, 632.030, 633.191, 634.020, 634A.040, 635.020, 636.035, 637.030, 637A.035, 637B.100, 639.030, 640.030, 640A.080, 640B.170, 640B.180, 640C.150, 641.040, 641A.100, 641B.100 and 641C.150) Sections 1, 4, ~~7, 8, 9, 11, 22-26, 29-32, 35, 37, 39, 40 and 42-45~~ 12, 26, 59-62, 65-68, 73, 75, 77, 78 and 80-83 of this bill create new requirements ~~for~~ related to selecting such persons if they are members of the profession being regulated by a board. ~~[One of these requirements is that an]~~ Specifically, each applicable professional association is required to provide a list of ~~[candidates]~~ nominees to the Governor for vacant positions on such boards. The Governor may, but is not required to, appoint a person from the list.

Existing law provides certain special types of licenses that the Board of Medical Examiners may issue. (NRS 630.258-630.265) Section 3 of this bill provides a new type of license for a foreign expert physician.

Existing law provides for certain persons to receive a license by endorsement to practice medicine. (NRS 630.1605) Section ~~[6]~~ 7 of this bill revises the requirements for such a license.

Existing law provides certain requirements and the procedures for creating requirements for schools and courses of professional nursing. (NRS 632.430-632.470) Section ~~[10]~~ 11 of this bill provides *for the* various requirements for nursing instructors in clinical practice. ~~[, pharmacology, and ethics or law.]~~

Existing law provides requirements for licensing and certification related to the practice of nursing. (NRS 632.300-632.345) Section ~~[12]~~ 13 of this bill enacts the Nurse Licensure Compact, which allows for multistate licensure privileges for nurses in states which are parties to the compact. Section ~~[13]~~ 14 of this bill requires the State Board of Nursing to adopt any regulations necessary for the implementation of the Nurse Licensure Compact.

Existing law provides various requirements regarding the handling of information related to certain conditions, limitations or restrictions placed on a license or certificate related to the practice of nursing. (NRS 632.307) Section ~~[16]~~ 19 of this bill clarifies compliance with the information requirements of the Nurse Licensure Compact.

Existing law provides exemptions to the requirement that nursing must be practiced in connection with a valid state license. (NRS 632.340) Section ~~[17]~~ 20 of this bill adds the multistate licensure privilege granted pursuant to the Nurse Licensure Compact to those exemptions.

Existing law provides confidentiality requirements related to investigations by the State Board of Nursing. (NRS 632.405) Section ~~[18]~~ 21 of this bill clarifies that such confidentiality requirements do not affect the information requirements of the Nurse Licensure Compact.

Existing law provides certain types of special licenses that the State Board of Osteopathic Medicine may issue. (NRS 633.401-633.411) Section ~~[20]~~ 24 of this bill provides a new type of license for a foreign expert osteopathic physician. Section ~~[21]~~ 25 of this bill provides a new type of license by endorsement to practice osteopathic medicine.

Existing law provides for the certification of osteopathic physician's assistants by the State Board of Osteopathic Medicine. (NRS 633.101, 633.431, 633.441, 633.451) Section 37 of this bill changes the title of "osteopathic physician's assistant" to "physician assistant." Sections 29 and 30 of this bill provide for the licensure, rather than certification, of such physician assistants. Sections 16, 17, 22, 36, 37, 39, 40, 43, 49, 53, 55, 58, 69, 71 and 84-118 amend various statutes in accordance with these changes.

Existing law provides requirements for the licensing of dispensing opticians. (NRS 637.090-637.140) Section ~~[28]~~ 64 of this bill provides a new type of license for a person with an out-of-state license as a dispensing optician.

Existing law provides for the creation of the State Board of Physical Therapy Examiners. (NRS 640.030) Section ~~74~~ 74 of this bill provides for the election of officers for that Board.

Section ~~119~~ 119 of this bill repeals *certain statutes, including, without limitation*, NRS 632.450 which requires that the minimum length for a course of instruction in nursing is 2 years.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~If the Governor must appoint to a board a person who is a member of a profession being regulated by that board, the Governor must select that person from a list provided by the applicable professional association if:~~

~~(a) The list is provided to the Governor within 30 days after an applicable position on the board becomes vacant or at least 30 days before the beginning of the first term for the vacant position; and~~

~~(b) The list contains three persons for each applicable vacant position on the board, and each such person meets the requirements to fill the position on the board.~~

~~2. If the applicable professional association does not provide the list pursuant to subsection 1, the Governor may appoint any person who is a member of the applicable profession and who meets the requirements for the vacant position.~~

~~3. A person who is a member of an applicable profession may not simultaneously serve as a member of a board and as an officer of the applicable professional association which submits the list pursuant to subsection 1. If such a person is chosen by the Governor pursuant to either subsection 1 or 2, the person may not serve on the board while still an officer of the applicable professional association, but may serve while only a member of the applicable professional association.~~

~~4. As used in this section:~~

~~(a) "Applicable professional association" means an association which:~~

~~(1) Represents the members of a profession being regulated by a particular board;~~

~~(2) Is open to all qualified members of that profession in this State; and~~

~~(3) Is a statewide chapter of the most prominent national association for that profession or, if such a prominent national association does not exist, is the most prominent statewide association for that profession.~~

~~(b) "Board" shall solicit nominees from one or more applicable professional associations in this State.~~

2. To the extent practicable, such an applicable professional association shall provide nominees who represent the geographic diversity of this State.

3. The Governor may appoint any qualified person to a board, without regard to whether the person is nominated pursuant to this section.

4. *As used in this section, "board" refers to a board created pursuant to ~~chapter~~ chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 639, 640, 640A, 640B, 640C, 641, 641A, 641B or 641C.*

Sec. 2. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 3, ~~and~~ 4 and 5 of this act.

Sec. 3. 1. *Except as otherwise provided in NRS 630.161, the Board may issue a restricted license to a person who:*

- (a) Is a graduate of a foreign medical school;*
- (b) Teaches, researches or practices medicine outside the United States;*
- (c) Is a recognized medical expert; and*
- (d) Intends to teach, research or practice clinical medicine at a medical research facility or medical school in this State.*

2. *Such a person must:*

- (a) Submit to the Board any documentation and other proof of qualifications required by the Board; and*
- (b) Meet all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160.*

3. *If a person who holds a restricted license issued pursuant to this section ceases to teach, research or practice clinical medicine in this State at the medical research facility or medical school where he is employed:*

- (a) The medical research facility or medical school, as applicable, shall notify the Board; and*
- (b) Upon receipt of such notification, the restricted license expires automatically.*

4. *The Board may renew or modify a restricted license issued pursuant to this section, unless the restricted license has expired automatically or has been revoked.*

5. *The provisions of this section do not limit the authority of the Board to issue a restricted license to an applicant in accordance with any other provision of this chapter.*

Sec. 4. *A member of the Board described pursuant to subsection 1 of NRS 630.060 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.*

Sec. 5. *A private nonprofit medical school that is licensed by the Commission on Postsecondary Education and approved by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges may, notwithstanding any provision of law to the contrary:*

1. Operate as a corporation or other business organization or association with ownership or control shared by persons licensed pursuant to this chapter and persons not licensed pursuant to this chapter;

2. Operate a clinic in conjunction with the school which is staffed by physicians or osteopathic physicians who are:

(a) Licensed pursuant to this chapter or chapter 633 of NRS, respectively;
and

(b) Members of the faculty of the school; and

3. Retain all or a portion of the money generated by a clinic described in subsection 2, including, without limitation, any professional income generated by a physician or osteopathic physician staffing the clinic.

~~[Sec. 5.]~~ Sec. 6. NRS 630.160 is hereby amended to read as follows:

630.160 1. Every person desiring to practice medicine must, before beginning to practice, procure from the Board a license authorizing him to practice.

2. Except as otherwise provided in NRS 630.1605, 630.161 and 630.258 to 630.265, inclusive, *and section 3 of this act*, a license may be issued to any person who:

(a) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(b) Has received the degree of doctor of medicine from a medical school:

(1) Approved by the Liaison Committee on Medical Education of the American Medical Association and Association of American Medical Colleges; or

(2) Which provides a course of professional instruction equivalent to that provided in medical schools in the United States approved by the Liaison Committee on Medical Education;

(c) Is currently certified by a specialty board of the American Board of Medical Specialties and who agrees to maintain such certification for the duration of his licensure, or has passed:

(1) All parts of the examination given by the National Board of Medical Examiners;

(2) All parts of the Federation Licensing Examination;

(3) All parts of the United States Medical Licensing Examination;

(4) All parts of a licensing examination given by any state or territory of the United States, if the applicant is certified by a specialty board of the American Board of Medical Specialties;

(5) All parts of the examination to become a licentiate of the Medical Council of Canada; or

(6) Any combination of the examinations specified in subparagraphs (1), (2) and (3) that the Board determines to be sufficient;

(d) Is currently certified by a specialty board of the American Board of Medical Specialties in the specialty of emergency medicine, preventive medicine or family practice and who agrees to maintain certification in at least one of these specialties for the duration of his licensure, or:

(1) Has completed 36 months of progressive postgraduate:

(I) Education as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association; or

(II) Fellowship training in the United States or Canada approved by the Board or the Accreditation Council for Graduate Medical Education; or

(2) Has completed at least 36 months of postgraduate education, not less than 24 months of such postgraduate education must be as a resident after receiving a medical degree from a combined dental and medical degree program approved by the Board; and

(e) Passes a written or oral examination, or both, as to his qualifications to practice medicine and provides the Board with a description of the clinical program completed demonstrating that the applicant's clinical training met the requirements of paragraph (b).

~~[Sec. 6.]~~ Sec. 7. NRS 630.1605 is hereby amended to read as follows:

630.1605 1. Except as otherwise provided in NRS 630.161, the Board [may] *shall, except for good cause,* issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

~~[1.]~~ (a) At the time the applicant files his application with the Board, the license is in effect ~~;~~

~~2.—The applicant:~~

~~(a) Submits to the Board proof of passage of an examination approved by the Board;~~

~~(b) Submits to the Board any documentation and other proof of qualifications required by the Board;~~

~~(c) Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and~~

~~(d) Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and~~

~~3.—Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.] and unrestricted; and~~

~~(b) The applicant:~~

~~(1) Is currently certified by a specialty board of the American Board of Medical Specialties ~~[; and]~~ and was certified or recertified within the past 10 years;~~

~~(2) Has had no adverse actions reported to the National Practitioner Data Bank within the past 10 years ~~[;]~~;~~

~~(3) Has been continuously and actively engaged in the practice of medicine within his specialty for the past 5 years;~~

~~(4) Is not involved in and does not have pending any disciplinary action concerning his license to practice medicine in the District of Columbia or any state or territory of the United States; and~~

~~(5) Provides information on all the medical malpractice claims brought against him, without regard to when the claims were filed or how the claims were resolved.~~

2. *A license by endorsement may be issued at a meeting of the Board or between its meetings by its President and ~~{Secretary subject to approval at the next meeting of the Board.}~~ Executive Director. Such an action shall be deemed to be an action of the Board.*

~~{Sec. 7.}~~ Sec. 8. Chapter 630A of NRS is hereby amended by adding thereto a new section to read as follows:

A member of the Board described pursuant to subsection 1 of NRS 630A.110 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.

~~{Sec. 8.}~~ Sec. 9. Chapter 631 of NRS is hereby amended by adding thereto a new section to read as follows:

A member of the Board described pursuant to paragraph (a) or (c) of subsection 1 of NRS 631.130 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.

~~{Sec. 9.}~~ Sec. 10. Chapter 632 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~{10 to 13.}~~ 11 to 14, inclusive, of this act.

~~{Sec. 10.}~~ Sec. 11. 1. *An accredited or approved school of nursing, practical nursing or professional nursing may ~~fr~~*

~~1. Hire~~ *hire as an instructor for clinical practice a person who holds a bachelor's degree in nursing and has at least ~~{2}~~ 5 years of nursing experience in patient care.*

2. ~~{Hire as an instructor for pharmacology a person who holds a doctorate in pharmacology from a school of pharmacology accredited by a nationally recognized accrediting association.~~

3. ~~{Hire as an instructor in ethics or law a physician, registered nurse or osteopathic physician who is medically licensed in this State and who holds a degree from a school of law accredited by the American Bar Association.~~

~~4.~~ *As used in this section, "instructor for clinical practice" means a registered nurse whose primary role is educating prelicensure nursing students in a skills laboratory or practice site.*

~~{Sec. 11.}~~ Sec. 12. *A member of the Board described pursuant to paragraph (a), (b) or (c) of subsection 1 of NRS 632.030 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.*

~~{Sec. 12.}~~ Sec. 13. *The Nurse Licensure Compact is hereby ratified, enacted into law and entered into with all jurisdictions legally joining in the Compact, in substantially the form set forth in this section:*

Nurse Licensure Compact

ARTICLE I. Findings and Declaration of Purpose

(a) The party states find that:

(1) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws.

(2) *Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public.*

(3) *The expanded mobility of nurses and the use of advanced communication technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation.*

(4) *New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex.*

(5) *The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant to both nurses and states.*

(b) *The general purposes of this Compact are to:*

(1) *Facilitate the states' responsibility to protect the public's health and safety.*

(2) *Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation.*

(3) *Facilitate the exchange of information between party states in the areas of nurse regulation, investigation and adverse actions.*

(4) *Promote compliance with the laws governing the practice of nursing in each jurisdiction.*

(5) *Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.*

ARTICLE II. Definitions

As used in this Compact:

(a) *"Adverse action" means a home or remote state action.*

(b) *"Alternative program" means a voluntary, nondisciplinary monitoring program approved by a nurse licensing board.*

(c) *"Coordinated licensure information system" means an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a nonprofit organization composed of and controlled by state nurse licensing boards.*

(d) *"Current significant investigative information" means:*

(1) *Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or*

(2) *Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.*

(e) *"Home state" means the party state which is the nurse's primary state of residence.*

(f) *"Home state action" means any administrative, civil, equitable or criminal action permitted by the home state's laws which are imposed on a*

nurse by the home state's licensing board or other authority including actions against an individual's license such as revocation, suspension, probation or any other action which affects a nurse's authorization to practice.

(g) "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

(h) "Multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical vocational nurse in such party state. All party states have the authority, in accordance with existing state due process law, to take actions against the nurse's privilege such as revocation, suspension, probation or any other action which affects a nurse's authorization to practice.

(i) "Nurse" means a registered nurse or licensed practical vocational nurse, as those terms are defined by each party's state practice laws.

(j) "Party state" means any state that has adopted this Compact.

(k) "Remote state" means a party state, other than the home state, where the patient is located at the time nursing care is provided or, in the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located.

(l) "Remote state action" means any administrative, civil, equitable or criminal action permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing board or other authority including actions against an individual's multistate licensure privilege to practice in the remote state, and cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards thereof.

(m) "State" means a state, territory or possession of the United States, and the District of Columbia.

(n) "State practice laws" means those individual party's state laws and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. The term does not include the initial qualifications for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

ARTICLE III. General Provisions and Jurisdiction

(a) A license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in such party state. A license to practice licensed practical vocational nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical vocational nurse in such party state. In order to obtain or retain a license, an applicant must meet the home state's qualifications for licensure and license renewal as well as all other applicable state laws.

(b) *Party states may, in accordance with state due process laws, limit or revoke the multistate licensure privilege of any nurse to practice in their state and may take any other actions under their applicable state laws necessary to protect the health and safety of their citizens. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.*

(c) *Every nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time care is rendered. In addition, the practice of nursing is not limited to patient care, but shall include all nursing practice as defined by the state practice laws of a party state. The practice of nursing will subject a nurse to the jurisdiction of the nurse licensing board and the courts, as well as the laws, in that party state.*

(d) *This Compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice registered nursing if one is required by state law as a precondition for qualifying for advanced practice registered nurse authorization.*

(e) *Individuals not residing in a party state shall continue to be able to apply for nurse licensure as provided for under the laws of each party state. However, the license granted to these individuals will not be recognized as granting the privilege to practice nursing in any other party state unless explicitly agreed to by that party state.*

ARTICLE IV. Applications for Licensure in a Party State

(a) *Upon application for a license, the licensing board in a party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any restrictions on the multistate licensure privilege and whether any other adverse action by any state has been taken against the license.*

(b) *A nurse in a party state shall hold licensure in only one party state at a time, issued by the home state.*

(c) *A nurse who intends to change primary state of residence may apply for licensure in the new home state in advance of such change. However, new licenses will not be issued by a party state until after a nurse provides evidence of change in primary state of residence satisfactory to the new home state's licensing board.*

(d) *When a nurse changes primary state of residence by:*

(1) *Moving between two party states, and obtains a license from the new home state, the license from the former home state is no longer valid.*

(2) *Moving from a nonparty state to a party state, and obtains a license from the new home state, the individual state license issued by the nonparty*

state is not affected and will remain in full force if so provided by the laws of the nonparty state.

(3) Moving from a party state to a nonparty state, the license issued by the prior home state converts to an individual state license, valid only in the former home state, without the multistate licensure privilege to practice in other party states.

ARTICLE V. Adverse Actions

In addition to the General Provisions described in Article III, the following provisions apply:

(a) The licensing board of a remote state shall promptly report to the administrator of the coordinated licensure information system any remote state actions, including the factual and legal basis for such action, if known. The licensing board of a remote state shall also promptly report any significant current investigative information yet to result in a remote state action. The administrator of the coordinated licensure information system shall promptly notify the home state of any such reports.

(b) The licensing board of a party state shall have the authority to complete any pending investigations for a nurse who changes primary state of residence during the course of such investigations. It shall also have the authority to take appropriate action(s), and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

(c) A remote state may take adverse action affecting the multistate licensure privilege to practice within that party state. However, only the home state shall have the power to impose adverse action against the license issued by the home state.

(d) For purposes of imposing adverse action, the licensing board of the home state shall give the same priority and effect to reported conduct received from a remote state as it would if such conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action.

(e) The home state may take adverse action based on the factual findings of the remote state, so long as each state follows its own procedures for imposing such adverse action.

(f) Nothing in this Compact shall override a party state's decision that participation in an alternative program may be used in lieu of licensure action and that such participation shall remain nonpublic if required by the party state's laws. Party states must require nurses who enter any alternative programs to agree not to practice in any other party state during the term of the alternative program without prior authorization from such other party state.

ARTICLE VI. Additional Authorities Invested in Party State Nurse Licensing Boards

Notwithstanding any other powers, party state nurse licensing boards shall have the authority to:

(a) If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.

(b) Issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a nurse licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses and/or evidence are located.

(c) Issue cease and desist orders to limit or revoke a nurse's authority to practice in their state.

(d) Promulgate uniform rules and regulations as provided for in Article VIII(c).

ARTICLE VII. Coordinated Licensure Information System

(a) All party states shall participate in a cooperative effort to create a coordinated database of all licensed registered nurses and licensed practical vocational nurses. This system will include information on the licensure and disciplinary history of each nurse, as contributed by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(b) Notwithstanding any other provision of law, all party states' licensing boards shall promptly report adverse actions, actions against multistate licensure privileges, any current significant investigative information yet to result in adverse action, denials of applications, and the reasons for such denials, to the coordinated licensure information system.

(c) Current significant investigative information shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(d) Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

(e) Any personally identifiable information obtained by a party state's licensing board from the coordinated licensure information system may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(f) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party

state contributing that information shall also be expunged from the coordinated licensure information system.

(g) The Compact administrators, acting jointly with each other and in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this Compact.

ARTICLE VIII. Compact Administration and Interchange of Information

(a) The head of the nurse licensing board, or his designee, of each party state shall be the administrator of this Compact for his state.

(b) The Compact administrator of each party state shall furnish to the Compact administrator of each other party state any information and documents, including, but not limited to, a uniform data set of investigations, identifying information, licensure data and disclosable alternative program participation information to facilitate the administration of this Compact.

(c) Compact administrators shall have the authority to develop uniform rules to facilitate and coordinate implementation of this Compact. These uniform rules shall be adopted by party states, under the authority invested under Article VI(d).

ARTICLE IX. Immunity

No party state or the officers or employees or agents of a party state's nurse licensing board who acts in accordance with the provisions of this Compact shall be liable on account of any act or omission in good faith while engaged in the performance of their duties under this Compact. Good faith in this Article shall not include willful misconduct, gross negligence or recklessness.

ARTICLE X. Entry into Force, Withdrawal and Amendment

(a) This Compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this Compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 6 months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

(b) No withdrawal shall affect the validity or applicability by the licensing boards of states remaining party to the Compact of any report of adverse action occurring prior to the withdrawal.

(c) Nothing contained in this Compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this Compact.

(d) This Compact may be amended by the party states. No amendment to this Compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

ARTICLE XI. Construction and Severability

(a) This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be

contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state party thereto, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

(b) In the event party states find a need for settling disputes arising under this Compact:

(1) The party states may submit the issues in dispute to an arbitration panel which will be comprised of an individual appointed by the Compact administrator in the home state, an individual appointed by the Compact administrator in the remote state(s) involved and an individual mutually agreed upon by the Compact administrators of all the party states involved in the dispute.

(2) The decision of a majority of the arbitrators shall be final and binding.

~~{Sec. 13.}~~ Sec. 14. The Board shall adopt any regulations necessary for the implementation of the Nurse Licensure Compact enacted pursuant to section ~~{12}~~ 13 of this act, including, without limitation, any regulations which interpret any parts of the interstate compact that require interpretation and which are necessary for its implementation.

~~{Sec. 14.}~~ Sec. 15. NRS 632.0126 is hereby amended to read as follows:

632.0126 "Approved school of nursing" means a school of nursing that is approved by the Board as meeting the standards for nursing education established by the Board pursuant to NRS 632.430 to 632.470, inclusive ~~{-}~~, and section ~~{10}~~ 11 of this act.

Sec. 16. NRS 632.017 is hereby amended to read as follows:

632.017 "Practice of practical nursing" means the performance of selected acts in the care of the ill, injured or infirm under the direction of a registered professional nurse, an advanced practitioner of nursing, a licensed physician, a ~~licensed~~ physician assistant ~~{-}~~ licensed pursuant to chapter 630 or 633 of NRS, a licensed dentist or a licensed podiatric physician, not requiring the substantial specialized skill, judgment and knowledge required in professional nursing.

Sec. 17. NRS 632.018 is hereby amended to read as follows:

632.018 "Practice of professional nursing" means the performance of any act in the observation, care and counsel of the ill, injured or infirm, in the maintenance of health or prevention of illness of others, in the supervision and teaching of other personnel, in the administration of medications and treatments as prescribed by an advanced practitioner of nursing, a licensed physician, a ~~licensed~~ physician assistant ~~{-}~~ licensed pursuant to chapter 630 or 633 of NRS, a licensed dentist or a licensed podiatric

physician, requiring substantial specialized judgment and skill based on knowledge and application of the principles of biological, physical and social science, but does not include acts of medical diagnosis or prescription of therapeutic or corrective measures.

~~[Sec. 15.]~~ *Sec. 18.* NRS 632.030 is hereby amended to read as follows:

632.030 1. The Governor shall appoint:

(a) Three registered nurses who are graduates of an accredited school of nursing, are licensed as professional nurses in the State of Nevada and have been actively engaged in nursing for at least 5 years preceding the appointment.

(b) One practical nurse who is a graduate of an accredited school of practical nursing, is licensed as a practical nurse in this State and has been actively engaged in nursing for at least 5 years preceding the appointment.

(c) One nursing assistant who is certified pursuant to the provisions of this chapter.

(d) One member who represents the interests of persons or agencies that regularly provide health care to patients who are indigent, uninsured or unable to afford health care. This member may be licensed under the provisions of this chapter.

(e) One member who is a representative of the general public. This member must not be:

(1) A licensed practical nurse, a registered nurse, a nursing assistant or an advanced practitioner of nursing; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a licensed practical nurse, a registered nurse, a nursing assistant or an advanced practitioner of nursing.

2. Each member of the Board must be:

(a) A citizen of the United States; and

(b) A resident of the State of Nevada who has resided in this State for not less than 2 years.

3. A representative of the general public may not:

(a) Have a fiduciary obligation to a hospital or other health agency;

(b) Have a material financial interest in the rendering of health services; or

(c) Be employed in the administration of health activities or the performance of health services.

4. The members appointed to the Board pursuant to paragraphs (a) and (b) of subsection 1 must be selected to provide the broadest representation of the various activities, responsibilities and types of service within the practice of nursing and related areas, which may include, without limitation, experience:

(a) In administration.

(b) In education.

(c) As an advanced practitioner of nursing.

(d) In an agency or clinic whose primary purpose is to provide medical assistance to persons of low and moderate incomes.

(e) In a licensed medical facility.

5. Each member of the Board shall serve a term of 4 years. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this ~~section~~ chapter to replace that member for the remainder of the unexpired term.

6. No member of the Board may serve more than two consecutive terms. For the purposes of this subsection, service of 2 or more years in filling an unexpired term constitutes a term.

~~[Sec. 16.]~~ Sec. 19. NRS 632.307 is hereby amended to read as follows:

632.307 1. The Board may place any condition, limitation or restriction on any license or certificate issued pursuant to this chapter if the Board determines that such action is necessary to protect the public health, safety or welfare.

2. ~~[The]~~ *Except as otherwise provided by the Nurse Licensure Compact enacted pursuant to section ~~112~~ 13 of this act,* the Board shall not report any condition, limitation or restriction placed on a license or certificate issued pursuant to this section to the National Council of State Boards of Nursing Disciplinary Data Bank or any other repository which records disciplinary action taken against licensees or holders of certificates, unless the licensee or holder of the certificate fails to comply with the condition, limitation or restriction placed on the license or certificate. The Board may, upon request, report any such information to an agency of another state which regulates the practice of nursing.

3. The Board may modify any condition, limitation or restriction placed on a license or certificate issued pursuant to this section if the Board determines it is necessary to protect the public health, safety or welfare.

4. Any condition, limitation or restriction placed on a license or certificate issued pursuant to this section shall not be deemed to be disciplinary action taken pursuant to NRS 632.325.

~~[Sec. 17.]~~ Sec. 20. NRS 632.340 is hereby amended to read as follows:

632.340 The provisions of NRS 632.315 do not prohibit:

1. Gratuitous nursing by friends or by members of the family of a patient.

2. The incidental care of the sick by domestic servants or persons primarily employed as housekeepers as long as they do not practice nursing within the meaning of this chapter.

3. Nursing assistance in the case of an emergency.

4. The practice of nursing by students enrolled in accredited schools of nursing or by graduates of those schools or courses pending the results of the first licensing examination scheduled by the Board following graduation. A student or graduate may not work as a nursing assistant unless he is certified to practice as a nursing assistant pursuant to the provisions of this chapter.

5. The practice of nursing in this State by any legally qualified nurse or nursing assistant of another state whose engagement requires him to accompany and care for a patient temporarily residing in this State during the period of one such engagement, not to exceed 6 months, if the person does not represent or hold himself out as a nurse licensed to practice in this State or as a nursing assistant who holds a certificate to practice in this State.

6. The practice of any legally qualified nurse of another state who is employed by the United States Government, or any bureau, division or agency thereof, while in the discharge of his official duties in this State.

7. Nonmedical nursing for the care of the sick, with or without compensation, if done by the adherents of, or in connection with, the practice of the religious tenets of any well-recognized church or religious denomination, if that nursing does not amount to the practice of practical or professional nursing as defined in NRS 632.017 and 632.018, respectively.

8. A personal assistant from performing services for a person with a disability pursuant to NRS 629.091.

9. A natural person from providing supported living arrangement services if:

(a) That person has been issued a certificate pursuant to NRS 435.3305 to 435.339, inclusive, and the regulations adopted pursuant to NRS 435.3305 to 435.339, inclusive; or

(b) That person is employed or retained as an independent contractor by a partnership, firm, corporation or association, state or local government or agency thereof that has been issued a certificate pursuant to NRS 435.3305 to 435.339, inclusive, and the regulations adopted pursuant to NRS 435.3305 to 435.339, inclusive.

↪ As used in this subsection, "supported living arrangement services" has the meaning ascribed to it in NRS 435.3315.

10. *The practice of nursing pursuant to the Nurse Licensure Compact enacted pursuant to section ~~12~~ 13 of this act.*

~~[Sec. 18.]~~ Sec. 21. NRS 632.405 is hereby amended to read as follows:

632.405 1. Except as otherwise provided in this section, any records or information obtained during the course of an investigation by the Board and any record of the investigation are confidential.

2. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose disciplinary action are public records.

3. This section does not prevent or prohibit the Board from communicating or cooperating with another licensing Board or any agency that is investigating a licensee, including a law enforcement agency.

4. *This section does not prevent or prohibit the Board from acting pursuant to the Nurse Licensure Compact enacted pursuant to section ~~12~~ 13 of this act.*

Sec. 22. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, physician assistant, ~~or~~ licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who maintains or is employed by an agency to provide nursing in the home.

(f) Any employee of the Department of Health and Human Services.

(g) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(h) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(i) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(j) Any social worker.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section, "agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

~~[Sec. 19.]~~ Sec. 23. Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[20, 21 and 22]~~ 24 to 35, inclusive, of this act.

~~[Sec. 20.]~~ Sec. 24. 1. Except as otherwise provided in NRS 633.315, the Board may issue a special license to a person who:

- (a) Is a graduate of a foreign school which teaches osteopathic medicine;
- (b) Teaches, researches or practices osteopathic medicine outside the United States;
- (c) Is a recognized expert in osteopathic medicine; and
- (d) Intends to teach, research or practice clinical osteopathic medicine at a medical research facility or school of osteopathic medicine in this State.

2. Such a person must:

- (a) Submit to the Board any documentation and other proof of qualifications required by the Board; and
- (b) Meet all of the statutory requirements for licensure to practice osteopathic medicine in effect at the time of application except for the requirements set forth in NRS 633.315.

3. If a person who holds a special license issued pursuant to this section ceases to teach, research or practice clinical osteopathic medicine in this State at the medical research facility or school of osteopathic medicine where he is employed:

- (a) The medical research facility or school of osteopathic medicine, as applicable, shall notify the Board; and
- (b) Upon receipt of such notification, the special license expires automatically.

4. The Board may renew or modify a special license issued pursuant to this section, unless the special license has expired automatically or has been revoked.

5. The provisions of this section do not limit the authority of the Board to issue a special license to an applicant in accordance with any other provision of this chapter.

~~6. As used in this section, "medical facility" has the meaning ascribed to it in NRS 419.0151.~~

~~[Sec. 21.]~~ Sec. 25. 1. Except as otherwise provided in NRS 633.315, the Board ~~may~~ shall, except for good cause, issue a license by endorsement to a person who has been issued a license to practice osteopathic medicine by the District of Columbia or any state or territory of the United States if:

- (a) At the time the person files his application with the Board, the license is in effect and unrestricted; and
- (b) The applicant:

(1) Is currently certified by ~~both~~ either a specialty board of the American Board of Medical Specialties ~~and~~ or a specialty board of the American Osteopathic Association ~~and~~, and was certified or recertified within the past 10 years;

(2) Has had no adverse actions reported to the National Practitioner Data Bank within the past 10 years ~~[]~~;

(3) Has been continuously and actively engaged in the practice of osteopathic medicine within his specialty for the past 5 years;

(4) Is not involved in and does not have pending any disciplinary action concerning his license to practice osteopathic medicine in the District of Columbia or any state or territory of the United States; and

(5) Provides information on all the medical malpractice claims brought against him, without regard to when the claims were filed or how the claims were resolved.

2. Any person applying for a license pursuant to this section shall pay in advance to the Board the application and initial license fee specified in this chapter.

3. A license by endorsement may be issued at a meeting of the Board or between its meetings by its President and ~~[Secretary subject to approval at the next meeting of the Board.]~~ Executive Director. Such action shall be deemed to be an action of the Board.

~~[Sec. 22.]~~ Sec. 26. A member of the Board described pursuant to subsection 1 of NRS 633.191 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.

Sec. 27. A private nonprofit school of osteopathic medicine that is licensed by the Commission on Postsecondary Education and approved by the American Osteopathic Association's Commission on College Accreditation may, notwithstanding any provision of law to the contrary:

1. Operate as a corporation or other business organization or association with ownership or control shared by persons licensed pursuant to this chapter and persons not licensed pursuant to this chapter;

2. Operate a clinic in conjunction with the school which is staffed by osteopathic physicians or physicians who are:

(a) Licensed pursuant to this chapter or chapter 630 of NRS, respectively; and

(b) Members of the faculty of the school; and

3. Retain all or a portion of the money generated by a clinic described in subsection 2, including, without limitation, any professional income generated by an osteopathic physician or physician staffing the clinic.

Sec. 28. 1. A physician assistant may perform such medical services as:

(a) He is authorized to perform by his supervising osteopathic physician; and

(b) Are within his supervising osteopathic physician's scope of practice.

2. The Board and supervising osteopathic physician shall limit the authority of a physician assistant to prescribe controlled substances to those schedules of controlled substances that the supervising osteopathic physician is authorized to prescribe pursuant to state and federal law.

Sec. 29. The Board may issue a license as a physician assistant to an applicant who is qualified under the regulations of the Board to perform medical services under the supervision of a supervising osteopathic physician. The application for a license as a physician assistant must include all information required to complete the application.

Sec. 30. The Board shall adopt regulations regarding the licensure of a physician assistant, including, without limitation:

1. The educational and other qualifications of applicants.
2. The required academic program for applicants.
3. The procedures for applications for and the issuance of licenses.
4. The tests or examinations of applicants by the Board.
5. The medical services which a physician assistant may perform, except that he may not perform osteopathic manipulative therapy or those specific functions and duties delegated or restricted by law to persons licensed as dentists, chiropractors, podiatric physicians, optometrists and hearing aid specialists under chapters 631, 634, 635, 636 and 637A, respectively, of NRS.

6. The duration, renewal and termination of licenses.
7. The grounds and procedures respecting disciplinary actions against physician assistants.
8. The supervision of medical services of a physician assistant by a supervising osteopathic physician.

Sec. 31. 1. A physician assistant shall:

- (a) Keep his license available for inspection at his primary place of business; and
- (b) When engaged in his professional duties, identify himself as a physician assistant.

2. A physician assistant shall not bill a patient separately from his supervising osteopathic physician.

Sec. 32. 1. An osteopathic physician may at any time refuse to act as a supervising osteopathic physician for a physician assistant.

2. A condition, stipulation or provision in a contract or other agreement which:

- (a) Requires an osteopathic physician to act as a supervising osteopathic physician for a physician assistant;
- (b) Penalizes an osteopathic physician for refusing to act as a supervising osteopathic physician for a physician assistant; or
- (c) Limits a supervising osteopathic physician's authority with regard to any protocol, standing order or delegation of authority applicable to a physician assistant supervised by the osteopathic physician,
↪ is against public policy and is void.

Sec. 33. An osteopathic physician who does not normally provide care to patients may not be a supervising osteopathic physician.

Sec. 34. 1. A supervising osteopathic physician shall provide supervision to his physician assistant continuously whenever the physician assistant is performing his professional duties.

2. Except as otherwise provided in subsection 3, a supervising osteopathic physician may provide supervision to his physician assistant in person or by telecommunication. When providing supervision by telecommunication, a supervising osteopathic physician may be at a different site than the physician assistant.

3. A supervising osteopathic physician shall provide supervision to his physician assistant in person at all times during the first 30 days that the supervising osteopathic physician supervises the physician assistant. After the first 30 days, the supervising osteopathic physician shall not regularly maintain the physician assistant at a different site than the supervising osteopathic physician.

4. Before beginning to supervise a physician assistant, a supervising osteopathic physician must communicate to the physician assistant:

(a) The scope of practice of the physician assistant;

(b) The access to the supervising osteopathic physician that the physician assistant will have; and

(c) Any processes for evaluation that the supervising osteopathic physician will use to evaluate the physician assistant.

5. A supervising osteopathic physician shall not delegate to his physician assistant, and his physician assistant shall not accept, a task that is beyond the physician assistant's capability to complete safely.

Sec. 35. 1. A physician assistant licensed under the provisions of this chapter who is responding to a need for medical care created by an emergency or disaster, as declared by an applicable governmental entity, may render emergency care that is directly related to the emergency or disaster without the supervision of an osteopathic physician, as required by this chapter. The provisions of this subsection apply only for the duration of the emergency or disaster.

2. An osteopathic physician who supervises a physician assistant who is rendering emergency care that is directly related to an emergency or disaster, as described in subsection 1, shall not be required to meet the requirements set forth in this chapter for such supervision.

Sec. 36. NRS 633.031 is hereby amended to read as follows:

633.031 ~~["Employing"]~~ "Supervising osteopathic physician" means an osteopathic physician who is licensed in this State [who employs], is in good standing with the Board and supervises [an osteopathic physician's] a
physician assistant with Board approval.

Sec. 37. NRS 633.101 is hereby amended to read as follows:

633.101 ~~["Osteopathic physician's"]~~ "Physician assistant" means a person who is a graduate of an academic program approved by the Board or who, by general education, practical training and experience determined to be satisfactory by the Board, is qualified to perform medical services under the

supervision of ~~an employing~~ a supervising osteopathic physician ~~and~~ who has been issued a license by the Board.

Sec. 38. NRS 633.131 is hereby amended to read as follows:

633.131 1. "Unprofessional conduct" includes:

(a) Willfully making a false or fraudulent statement or submitting a forged or false document in applying for a license to practice osteopathic medicine or in applying for renewal of a license to practice osteopathic medicine.

(b) Failure of a licensee of the practice of osteopathic medicine to designate his school of practice in the professional use of his name by the term D.O., osteopathic physician, doctor of osteopathy or a similar term.

(c) Directly or indirectly giving to or receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation for sending, referring or otherwise inducing a person to communicate with an osteopathic physician in his professional capacity or for any professional services not actually and personally rendered, except as otherwise provided in subsection 2.

(d) Employing, directly or indirectly, any suspended or unlicensed person in the practice of osteopathic medicine, or the aiding or abetting of any unlicensed person to practice osteopathic medicine.

(e) Advertising the practice of osteopathic medicine in a manner which does not conform to the guidelines established by regulations of the Board.

(f) Engaging in any:

(1) Professional conduct which is intended to deceive or which the Board by regulation has determined is unethical; or

(2) Medical practice harmful to the public or any conduct detrimental to the public health, safety or morals which does not constitute gross or repeated malpractice or professional incompetence.

(g) Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, otherwise than in the course of legitimate professional practice or as authorized by law.

(h) Habitual drunkenness or habitual addiction to the use of a controlled substance.

(i) Performing, assisting in or advising an unlawful abortion or the injection of any liquid silicone substance into the human body.

(j) Willful disclosure of a communication privileged pursuant to a statute or court order.

(k) Willful disobedience of the regulations of the State Board of Health, the State Board of Pharmacy or the State Board of Osteopathic Medicine.

(l) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any prohibition made in this chapter.

(m) Failure of a licensee to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

(n) Making alterations to the medical records of a patient that the licensee knows to be false.

(o) Making or filing a report which the licensee knows to be false.

(p) Failure of a licensee to file a record or report as required by law, or willfully obstructing or inducing any person to obstruct such filing.

(q) Failure of a licensee to make medical records of a patient available for inspection and copying as provided by NRS 629.061.

2. It is not unprofessional conduct:

(a) For persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to practice osteopathic medicine in partnership under a partnership agreement or in a corporation or an association authorized by law, or to pool, share, divide or apportion the fees and money received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association;

(b) For two or more persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to receive adequate compensation for concurrently rendering professional care to a patient and dividing a fee if the patient has full knowledge of this division and if the division is made in proportion to the services performed and the responsibility assumed by each; or

(c) For a person licensed to practice osteopathic medicine pursuant to the provisions of this chapter to form an association or other business relationship with an optometrist pursuant to the provisions of NRS 636.373.

Sec. 39. NRS 633.151 is hereby amended to read as follows:

633.151 The purpose of licensing osteopathic physicians and ~~osteopathic physicians~~ physician assistants is to protect the public health and safety and the general welfare of the people of this State. Any license issued pursuant to this chapter is a revocable privilege and a holder of such a license does not acquire thereby any vested right.

Sec. 40. NRS 633.301 is hereby amended to read as follows:

633.301 1. The Board shall keep a record of its proceedings relating to licensing and disciplinary actions. Except as otherwise provided in this section, the record must be open to public inspection at all reasonable times and contain the name, known place of business and residence, and the date and number of the license of every osteopathic physician and every physician assistant licensed under this chapter.

2. Except as otherwise provided in this section, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.

3. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all other documents and information considered by the Board when determining whether to impose discipline are public records.

4. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 41. NRS 633.321 is hereby amended to read as follows:

633.321 1. Every applicant for a license shall:

(a) File an application with the Board in the manner prescribed by regulations of the Board;

(b) Submit verified proof satisfactory to the Board that he meets ~~the~~ any age, citizenship and educational requirements prescribed by this chapter; and

(c) Pay in advance to the Board the application and initial license fee specified in this chapter.

2. An application filed with the Board pursuant to subsection 1 must include all information required to complete the application.

3. The Board may hold hearings and conduct investigations into any matter related to the application and, in addition to the proofs required by subsection 1, may take such further evidence and require such other documents or proof of qualifications as it deems proper.

4. The Board may reject an application if it appears that any credential submitted is false.

Sec. 42. NRS 633.322 is hereby amended to read as follows:

633.322 In addition to the other requirements for licensure ~~to~~ to practice osteopathic medicine, an applicant shall cause to be submitted to the Board a certificate of completion of progressive postgraduate training from the residency program where the applicant received training.

Sec. 43. NRS 633.328 is hereby amended to read as follows:

633.328 In addition to any other requirements set forth in this chapter, each applicant for a license ~~to practice osteopathic medicine~~, except a temporary or special license, ~~for each osteopathic physician's assistant for whom an application to employ an osteopathic physician's assistant is submitted to the Board~~ must submit to the Board 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.

Sec. 44. NRS 633.371 is hereby amended to read as follows:

633.371 Every license to practice osteopathic medicine must be displayed in the office or place of business or employment of its holder.

Sec. 45. NRS 633.391 is hereby amended to read as follows:

633.391 1. The Board may issue a temporary license to practice osteopathic medicine in order to authorize a person who is qualified to

practice osteopathic medicine in this State to serve as a substitute for an osteopathic physician who is absent from his practice.

2. Each applicant for such a license shall pay the temporary license fee specified in this chapter.

3. A temporary license to practice osteopathic medicine is valid for not more than 6 months after issuance and is not renewable.

Sec. 46. NRS 633.401 is hereby amended to read as follows:

633.401 1. Except as otherwise provided in NRS 633.315, the Board may issue a special license ~~to~~ to practice osteopathic medicine:

(a) To authorize a person who is licensed to practice osteopathic medicine in an adjoining state to come into Nevada to care for or assist in the treatment of his patients in association with an osteopathic physician in this State who has primary care of the patients.

(b) To a resident while he is enrolled in a postgraduate training program required pursuant to the provisions of paragraph (c) of subsection 4 of NRS 633.311.

(c) For a specified period and for specified purposes to a person who is licensed to practice osteopathic medicine in another jurisdiction.

2. A special license issued under this section may be renewed by the Board upon application of the licensee.

3. Every person who applies for or renews a special license under this section shall pay respectively the special license fee or special license renewal fee specified in this chapter.

Sec. 47. NRS 633.411 is hereby amended to read as follows:

633.411 1. Except as otherwise provided in NRS 633.315, the Board may issue a special license to practice osteopathic medicine to a person qualified under this section to authorize him to serve:

(a) As a resident medical officer in any hospital in Nevada. A person issued such a license shall practice osteopathic medicine only within the confines of the hospital specified in the license and under the supervision of the regular medical staff of that hospital.

(b) As a professional employee of the State of Nevada or of the United States. A person issued such a license shall practice osteopathic medicine only within the scope of his employment and under the supervision of the appropriate state or federal medical agency.

2. An applicant for a special license under this section must:

(a) Be a graduate of a school of osteopathic medicine and have completed a hospital internship.

(b) Pay the special license fee specified in this chapter.

3. The Board shall not issue a license under subsection 1 unless it has received a letter from a hospital in Nevada or from the appropriate state or federal medical agency requesting issuance of the special license to the applicant.

4. A special license issued under this section:

(a) Must be issued at a meeting of the Board or between its meetings by its President and Secretary subject to approval at the next meeting of the Board.

(b) Is valid for a period not exceeding 1 year, as determined by the Board.

(c) May be renewed by the Board upon application and payment by the licensee of the special license renewal fee specified in this chapter.

(d) Does not entitle the licensee to engage in the private practice of osteopathic medicine.

5. The issuance of a special license under this section does not obligate the Board to grant any regular license to practice osteopathic medicine.

Sec. 48. NRS 633.421 is hereby amended to read as follows:

633.421 Each license to practice osteopathic medicine issued by the Board:

1. Shall bear a seal adopted by the Board and the signatures of its President and Secretary; and

2. Authorizes the holder to practice osteopathic medicine so long as it is kept in force by appropriate renewal and is not revoked or suspended.

Sec. 49. NRS 633.466 is hereby amended to read as follows:

633.466 1. ~~[An osteopathic physician's]~~ A physician assistant may ~~[under his certificate,]~~ be supervised by a physician licensed to practice medicine in this State pursuant to chapter 630 of NRS in place of his ~~[employing]~~ supervising osteopathic physician if:

(a) The ~~[osteopathic physician's]~~ physician assistant works in a geographical area where he can be conveniently supervised only by such a physician; and

(b) The ~~[osteopathic physician's assistant remains in the employ of his employing osteopathic physician;~~

~~(c) The employing]~~ supervising osteopathic physician and the physician licensed pursuant to chapter 630 of NRS agree to the arrangement ~~[, and]~~

~~[(d) The Board of Osteopathic Medicine and the Board of Medical Examiners approve it.]~~

2. ~~[For the purposes of chapter 630 of NRS, an osteopathic physician's]~~ A physician assistant so supervised is not a ~~[physician's]~~ physician assistant for the purposes of chapter 630 of NRS solely because of that supervision ~~[and continues to practice osteopathic medicine.]~~

3. The State Board of Osteopathic Medicine shall adopt jointly with the Board of Medical Examiners regulations necessary to administer the provisions of this section.

Sec. 50. NRS 633.471 is hereby amended to read as follows:

633.471 1. Except as otherwise provided in subsection 4 and ~~[in]~~ NRS 633.491, every holder of a license to practice osteopathic medicine issued under this chapter, except a temporary or a special license, may renew his license on or before January 1 of each calendar year after its issuance by:

(a) Applying for renewal on forms provided by the Board;

(b) Paying the annual license renewal fee specified in this chapter;

(c) Submitting a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against him during the previous year;

(d) Submitting an affidavit to the Board that in the year preceding the application for renewal he has attended courses or programs of continuing education approved by the Board totaling a number of hours established by the Board which must not be less than 35 hours nor more than that set in the requirements for continuing medical education of the American Osteopathic Association; and

(e) Submitting all information required to complete the renewal.

2. The Secretary of the Board shall notify each licensee of the practice of osteopathic medicine of the requirements for renewal not less than 30 days before the date of renewal.

3. The Board shall request submission of verified evidence of completion of the required number of hours of continuing medical education annually from no fewer than one-third of the applicants for renewal of a license ~~to~~ to practice osteopathic medicine. Upon a request from the Board, an applicant for renewal of a license to practice osteopathic medicine shall submit verified evidence satisfactory to the Board that in the year preceding the application for renewal he attended courses or programs of continuing medical education approved by the Board totaling the number of hours established by the Board.

4. Members of the Armed Forces of the United States and the United States Public Health Service are exempt from payment of the annual license renewal fee during their active duty status.

Sec. 51. NRS 633.481 is hereby amended to read as follows:

633.481 1. Except as otherwise provided in subsection 2, if a licensee of the practice of osteopathic medicine fails to comply with the requirements of NRS 633.471 within 30 days after the renewal date, the Board shall give 30 days' notice of failure to renew and of revocation of the license by certified mail to the licensee at his last address registered with the Board. If the license is not renewed before the expiration of the 30 days' notice, the license is automatically revoked without any further notice or a hearing and the Board shall file a copy of the notice with the Drug Enforcement Administration of the United States Department of Justice or its successor agency.

2. A licensee of the practice of osteopathic medicine who fails to meet the continuing education requirements for license renewal may apply to the Board for a waiver of the requirements. The Board may grant a waiver for that year only if it finds that the failure is due to the licensee's disability, military service or absence from the United States, or to circumstances beyond the control of the licensee which are deemed by the Board to excuse the failure.

3. A person whose license is revoked under this section may apply to the Board for restoration of his license upon:

(a) Payment of all past due renewal fees and the late payment fee specified in this chapter;

(b) Producing verified evidence satisfactory to the Board of completion of the total number of hours of continuing education required for the year preceding the renewal date and for each year succeeding the date of revocation;

(c) Stating under oath in writing that he has not withheld information from the Board which if disclosed would furnish grounds for disciplinary action under this chapter; and

(d) Submitting all information required to complete the restoration of his license.

Sec. 52. NRS 633.491 is hereby amended to read as follows:

633.491 1. A licensee of the practice of osteopathic medicine who retires from ~~[the practice of osteopathic medicine]~~ such practice need not annually renew his license after he files with the Board an affidavit stating the date on which he retired from practice and such other facts to verify his retirement as the Board deems necessary.

2. A retired licensee of the practice of osteopathic medicine who desires to return to practice may apply to renew his license by paying all back annual license renewal fees from the date of retirement and submitting verified evidence satisfactory to the Board that he has attended continuing education courses or programs approved by the Board which total:

(a) Twenty-five hours if he has been retired 1 year or less.

(b) Fifty hours within 12 months of the date of the application if he has been retired for more than 1 year.

3. A licensee of the practice of osteopathic medicine who wishes to have his license placed on inactive status must provide the Board with an affidavit stating the date on which he will cease the practice of osteopathic medicine in Nevada and any other facts that the Board may require. The Board shall place the license of the licensee on inactive status upon receipt of:

(a) The affidavit required pursuant to this subsection; and

(b) Payment of the inactive license fee prescribed by NRS 633.501.

4. A licensee of the practice of osteopathic medicine whose license has been placed on inactive status:

(a) Need not annually renew his license.

(b) Shall annually pay the inactive license fee prescribed by NRS 633.501.

(c) Shall not engage in the practice of osteopathic medicine in this State.

5. A licensee of the practice of osteopathic medicine whose license is on inactive status and who wishes to renew his license to practice osteopathic medicine must:

(a) Provide to the Board verified evidence satisfactory to the Board of completion of the total number of hours of continuing medical education required for:

(1) The year preceding the date of the application for renewal of the license to practice osteopathic medicine; and

(2) Each year succeeding the date the license was placed on inactive status.

(b) Provide to the Board an affidavit stating that the applicant has not withheld from the Board any information which would provide grounds for disciplinary action pursuant to this chapter.

(c) Comply with all other requirements for renewal.

Sec. 53. NRS 633.501 is hereby amended to read as follows:

633.501 The Board shall charge and collect fees not to exceed the following amounts:

1. Application and initial license fee for an osteopathic physician \$800
2. Annual license renewal fee for an osteopathic physician 500
3. Temporary license fee 500
4. Special license fee 200
5. Special license renewal fee 200
6. Reexamination fee 200
7. Late payment fee 300
8. ~~For a certificate as an osteopathic physician's~~ Application and initial license fee for a physician assistant ~~500~~ 400
9. ~~Renewal of a certificate as an osteopathic physician's~~ Annual license renewal fee for a physician assistant ~~300~~ 400
10. ~~For an application to employ an osteopathic physician's assistant~~ ~~500~~
- ~~11.~~ Inactive license fee 200

Sec. 54. NRS 633.524 is hereby amended to read as follows:

633.524 1. The Board shall require each holder of a license to practice osteopathic medicine issued pursuant to this chapter to submit annually to the Board, on a form provided by the Board, and in the format required by the Board by regulation, a report:

(a) Stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his office or any other facility, excluding any surgical care performed:

- (1) At a medical facility as that term is defined in NRS 449.0151; or
- (2) Outside of this State; and

(b) Reporting the occurrence of any sentinel event arising from any such surgery.

2. Failure to submit a report or knowingly filing false information in a report constitutes grounds for initiating disciplinary action.

3. The Board shall:

- (a) Collect and maintain reports received pursuant to subsection 1; and
- (b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access.

4. A report received pursuant to subsection 1 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

5. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

6. As used in this section:

(a) "Conscious sedation" means a minimally depressed level of consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, in which the patient retains the ability independently and continuously to maintain an airway and to respond appropriately to physical stimulation and verbal commands.

(b) "Deep sedation" means a controlled state of depressed consciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by a partial loss of protective reflexes and the inability to respond purposefully to verbal commands.

(c) "General anesthesia" means a controlled state of unconsciousness, produced by a pharmacologic or nonpharmacologic method, or a combination thereof, and accompanied by partial or complete loss of protective reflexes and the inability independently to maintain an airway and respond purposefully to physical stimulation or verbal commands.

(d) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.

Sec. 55. NRS 633.533 is hereby amended to read as follows:

633.533 1. Any person, medical school or medical facility that becomes aware that a person practicing osteopathic medicine in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

2. Any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in an osteopathic physician's privileges to practice osteopathic medicine while the osteopathic physician is under investigation and the outcome of any disciplinary action taken by that facility or society against the osteopathic physician concerning the care of a patient or the competency of the osteopathic physician within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than \$10,000 against the facility or

society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

3. The clerk of every court shall report to the Board any finding, judgment or other determination of the court that an osteopathic physician or ~~osteopathic physician's~~ physician assistant:

- (a) Is mentally ill;
 - (b) Is mentally incompetent;
 - (c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;
 - (d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or
 - (e) Is liable for damages for malpractice or negligence,
- ↪ within 45 days after such a finding, judgment or determination is made.

4. On or before January 15 of each year, the clerk of every court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding osteopathic physicians pursuant to paragraph (e) of subsection 3.

Sec. 56. NRS 633.711 is hereby amended to read as follows:

633.711 1. The Board through its President or Secretary or the Attorney General may maintain in any court of competent jurisdiction a suit for an injunction against any person practicing osteopathic medicine without a license to practice osteopathic medicine valid under this chapter.

2. Such an injunction:

- (a) May be issued without proof of actual damage sustained by any person, this provision being a preventive as well as a punitive measure.
- (b) Shall not relieve such person from criminal prosecution for practicing without such a license.

Sec. 57. NRS 633.721 is hereby amended to read as follows:

633.721 In a criminal complaint charging any person with practicing osteopathic medicine without a license ~~to~~ to practice osteopathic medicine, it is sufficient to charge that he did, upon a certain day, and in a certain county of this State, engage in the practice of osteopathic medicine without having a valid license to do so, without averring any further or more particular facts concerning the violation.

Sec. 58. NRS 633.741 is hereby amended to read as follows:

633.741 A person who:

1. Except as otherwise provided in NRS 629.091, practices osteopathic medicine:

- (a) Without a license to practice osteopathic medicine valid under this chapter; or
- (b) Beyond the limitations ordered upon his practice by the Board or the court;

2. Presents as his own the diploma, license or credentials of another;

3. Gives either false or forged evidence of any kind to the Board or any of its members in connection with an application for a license; ~~for an application to employ an osteopathic physician's assistant;~~

4. Files for record the license issued to another, falsely claiming himself to be the person named in the license, or falsely claiming himself to be the person entitled to the license;

5. Practices osteopathic medicine under a false or assumed name or falsely personates another licensee of a like or different name;

6. Holds himself out as ~~an osteopathic physician's~~ a physician assistant or who uses any other term indicating or implying that he is ~~an osteopathic physician's~~ a physician assistant, unless he has been ~~approved~~ licensed by the Board ~~as~~ as provided in this chapter; or

7. ~~Employs~~ Supervises a person as ~~an osteopathic physician's~~ a physician assistant before such ~~employment is approved~~ person is licensed as provided in this chapter,

↪ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

~~[Sec. 23.]~~ Sec. 59. Chapter 634 of NRS is hereby amended by adding thereto a new section to read as follows:

A member of the Board described pursuant to paragraph (a) of subsection 2 of NRS 634.020 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.

~~[Sec. 24.]~~ Sec. 60. Chapter 634A of NRS is hereby amended by adding thereto a new section to read as follows:

A member of the Board described pursuant to subsection 1 of NRS 634A.040 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.

~~[Sec. 25.]~~ Sec. 61. Chapter 635 of NRS is hereby amended by adding thereto a new section to read as follows:

A member of the Board described pursuant to paragraph (a) of subsection 2 of NRS 635.020 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.

~~[Sec. 26.]~~ Sec. 62. Chapter 636 of NRS is hereby amended by adding thereto a new section to read as follows:

A member of the Board described pursuant to paragraph (a) of subsection 1 of NRS 636.035 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.

~~[Sec. 27.]~~ Sec. 63. Chapter 637 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[28 and 29]~~ 64 and 65 of this act.

~~[Sec. 28.]~~ Sec. 64. 1. The Board shall issue a special license as a dispensing optician to an applicant who:

(a) Is at least 18 years of age;

(b) Is of good moral character;

(c) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

- (d) *Is a graduate of an accredited high school or its equivalent;*
- (e) *Has passed the National Opticianry Competency Examination of the American Board of Opticianry;*
- (f) *Is currently certified by the American Board of Opticianry;*
- (g) *Has passed the Contact Lens Registry Examination of the National Contact Lens Examiners;*
- (h) *Is currently certified by the National Contact Lens Examiners;*
- (i) *Has passed an examination, if one exists, which is based solely on the provisions of this chapter and chapter 637 of NAC and is administered by the Board; and*
- (j) *Has either:*
 - (1) *An active license as a dispensing optician issued by the District of Columbia or any state or territory of the United States; or*
 - (2) *Not less than 5 years of experience as a dispensing optician.*

2. *A person practicing ophthalmic dispensing pursuant to a special license as provided in this section is subject to the provisions of this chapter in the same manner as a person practicing ophthalmic dispensing pursuant to a license issued pursuant to NRS 637.120, including, without limitation, the provisions of this chapter governing the renewal, inactivity or reactivation of a license.*

~~{Sec. 29.}~~ Sec. 65. *A member of the Board described pursuant to paragraph (a) of subsection 2 of NRS 637.030 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.*

~~{Sec. 30.}~~ Sec. 66. Chapter 637A of NRS is hereby amended by adding thereto a new section to read as follows:

A member of the Board described pursuant to paragraph (c) of subsection 1 of NRS 637A.035 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.

~~{Sec. 31.}~~ Sec. 67. Chapter 637B of NRS is hereby amended by adding thereto a new section to read as follows:

A member of the Board described pursuant to paragraph (a) or (b) of subsection 2 of NRS 637B.100 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.

~~{Sec. 32.}~~ Sec. 68. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

A member of the Board described pursuant to paragraph (a) of subsection 1 of NRS 639.030 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.

Sec. 69. NRS 639.0125 is hereby amended to read as follows:

639.0125 "Practitioner" means:

- 1. A physician, dentist, veterinarian or podiatric physician who holds a license to practice his profession in this State;
- 2. A hospital, pharmacy or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to

or administer drugs in the course of professional practice or research in this State;

3. An advanced practitioner of nursing who has been authorized to prescribe controlled substances, poisons, dangerous drugs and devices;

4. A physician assistant who:

(a) Holds a license issued by the Board of Medical Examiners; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances, poisons, dangerous drugs or devices under the supervision of a physician as required by chapter 630 of NRS;

5. ~~[An osteopathic physician's]~~ A physician assistant who:

(a) Holds a ~~[certificate]~~ license issued by the State Board of Osteopathic Medicine; and

(b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances, poisons, dangerous drugs or devices under the supervision of an osteopathic physician as required by chapter 633 of NRS; or

6. An optometrist who is certified by the Nevada State Board of Optometry to prescribe and administer therapeutic pharmaceutical agents pursuant to NRS 636.288, when he prescribes or administers therapeutic pharmaceutical agents within the scope of his certification.

~~[Sec. 33.]~~ Sec. 70. NRS 639.030 is hereby amended to read as follows:

639.030 1. The Governor shall appoint:

(a) Six members who are registered pharmacists in the State of Nevada, are actively engaged in the practice of pharmacy in the State of Nevada and have had at least 5 years' experience as registered pharmacists preceding the appointment.

(b) One member who is a representative of the general public and is not related to a pharmacist registered in the State of Nevada by consanguinity or affinity within the third degree.

2. Appointments of registered pharmacists must be representative of the practice of pharmacy.

3. Within 30 days after his appointment, each member of the Board shall take and subscribe an oath to discharge faithfully and impartially the duties prescribed by this chapter.

4. After the initial terms, the members of the Board must be appointed to terms of 3 years. A person may not serve as a member of the Board for more than three consecutive terms. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this ~~[section]~~ chapter to replace that member for the remainder of the unexpired term.

5. The Governor shall remove from the Board any member, after a hearing, for neglect of duty or other just cause.

Sec. 71. NRS 639.1373 is hereby amended to read as follows:

639.1373 1. A physician assistant licensed pursuant to chapter 630 or 633 of NRS ~~[for an osteopathic physician's assistant]~~ may, if authorized by the

Board, possess, administer, prescribe or dispense controlled substances, or possess, administer, prescribe or dispense poisons, dangerous drugs or devices in or out of the presence of his supervising physician only to the extent and subject to the limitations specified in the registration certificate issued to the physician assistant ~~for osteopathic physician's assistant, as appropriate,~~ by the Board pursuant to this section.

2. Each physician assistant licensed pursuant to chapter 630 or 633 of NRS ~~and osteopathic physician's assistant~~ who is authorized by his physician assistant's license issued by the Board of Medical Examiners or ~~certificate issued~~ by the State Board of Osteopathic Medicine, respectively, to possess, administer, prescribe or dispense controlled substances, or to possess, administer, prescribe or dispense poisons, dangerous drugs or devices must apply for and obtain a registration certificate from the Board, pay a fee to be set by regulations adopted by the Board and pass an examination administered by the Board on the law relating to pharmacy before he can possess, administer, prescribe or dispense controlled substances, or possess, administer, prescribe or dispense poisons, dangerous drugs or devices.

3. The Board shall consider each application separately and may, even though the physician assistant's license issued by the Board of Medical Examiners or ~~(the osteopathic physician's assistant's certificate issued)~~ by the State Board of Osteopathic Medicine authorizes the physician assistant ~~for osteopathic physician's assistant, as appropriate,~~ to possess, administer, prescribe or dispense controlled substances, or to possess, administer, prescribe or dispense poisons, dangerous drugs and devices:

(a) Refuse to issue a registration certificate;

(b) Issue a registration certificate limiting the authority of the physician assistant ~~for osteopathic physician's assistant, as appropriate,~~ to possess, administer, prescribe or dispense controlled substances, or to possess, administer, prescribe or dispense poisons, dangerous drugs or devices, the area in which the physician assistant ~~for osteopathic physician's assistant~~ may possess controlled substances, poisons, dangerous drugs and devices, or the kind and amount of controlled substances, poisons, dangerous drugs and devices; or

(c) Issue a registration certificate imposing other limitations or restrictions which the Board feels are necessary and required to protect the health, safety and welfare of the public.

4. If the registration of the physician assistant ~~for osteopathic physician's assistant~~ licensed pursuant to chapter 630 or 633 of NRS is suspended or revoked, the physician's controlled substance registration may also be suspended or revoked.

5. The Board shall adopt regulations controlling the maximum amount to be administered, possessed and dispensed, and the storage, security, recordkeeping and transportation of controlled substances and the maximum amount to be administered, possessed, prescribed and dispensed and the

storage, security, recordkeeping and transportation of poisons, dangerous drugs and devices by physician assistants ~~and osteopathic physicians' assistants.~~ licensed pursuant to chapter 630 or 633 of NRS. In the adoption of those regulations, the Board shall consider, but is not limited to, the following:

- (a) The area in which the physician assistant ~~for osteopathic physician's assistant~~ is to operate;
- (b) The population of that area;
- (c) The experience and training of the physician assistant; ~~for osteopathic physician's assistant;~~
- (d) The distance to the nearest hospital and physician; and
- (e) The effect on the health, safety and welfare of the public.

6. For the purposes of this section, the term "supervising physician" includes ~~an employing~~ a supervising osteopathic physician as defined in chapter 633 of NRS.

~~[Sec. 34.]~~ Sec. 72. Chapter 640 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[35 and 36]~~ 73 and 74 of this act.

~~[Sec. 35.]~~ Sec. 73. *A member of the Board described pursuant to paragraph (a) of subsection 2 of NRS 640.030 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.*

~~[Sec. 36.]~~ Sec. 74. *The Board shall elect a Chairman and other officers from among its members.*

~~[Sec. 37.]~~ Sec. 75. Chapter 640A of NRS is hereby amended by adding thereto a new section to read as follows:

A member of the Board described pursuant to paragraph (b) or (c) of subsection 2 of NRS 640A.080 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.

~~[Sec. 38.]~~ Sec. 76. NRS 640A.080 is hereby amended to read as follows:

640A.080 1. The Board of Occupational Therapy, consisting of five members appointed by the Governor, is hereby created.

2. The Governor shall appoint to the Board:

(a) One member who is a representative of the general public. This member must not be:

- (1) An occupational therapist or an occupational therapy assistant; or
 - (2) The spouse or the parent or child, by blood, marriage or adoption, of an occupational therapist or an occupational therapy assistant.
- (b) One member who is an occupational therapist or occupational therapy assistant.

(c) Three members who are occupational therapists.

3. Each member of the Board must be a resident of Nevada. An occupational therapist or occupational therapy assistant appointed to the Board must:

(a) Have practiced, taught or conducted research in occupational therapy for the 5 years immediately preceding his appointment; and

(b) Except for the initial members, hold a license issued pursuant to this chapter.

4. No member of the Board may serve more than two consecutive terms.

5. If a vacancy occurs during a member's term, the Governor shall appoint a person qualified under this ~~{section}~~ chapter to replace that member for the remainder of the unexpired term.

~~{Sec. 39.}~~ Sec. 77. NRS 640B.180 is hereby amended to read as follows:

640B.180 ~~{1. For the appointment of any member to the Board pursuant to paragraph (a) of subsection 2 of NRS 640B.170, the Nevada Athletic Trainers Association, or its successor organization, shall, at least 30 days before the beginning of a term of a member of the Board, or within 30 days after a position on the Board becomes vacant, submit to the Governor the names of not less than three persons or more than five persons who are qualified for membership on the Board for each such position. The Governor shall appoint new members or fill a vacancy from the list, or request a new list.~~

~~2. For the appointment of a member to the Board pursuant to paragraph (b) of subsection 2 of NRS 640B.170, the Nevada Physical Therapists Association, or its successor organization, and the Nevada Athletic Trainers Association, or its successor organization, shall, at least 30 days before the beginning of a term of a member of the Board, or within 30 days after a position on the Board becomes vacant, jointly prepare and submit to the Governor a list of the names of not less than three persons or more than five persons who are qualified for membership on the Board for that position. The Governor shall appoint a new member or fill a vacancy from the list, or request a new list.~~

~~3. If the Nevada Athletic Trainers Association or the Nevada Physical Therapists Association, or the successor of any such organization, fails to submit nominations for a position on the Board within the periods prescribed in this section, the Governor may appoint any qualified person.] A member of the Board described pursuant to paragraph (a) or (b) of subsection 2 of NRS 640B.170 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.~~

~~{Sec. 40.}~~ Sec. 78. Chapter 640C of NRS is hereby amended by adding thereto a new section to read as follows:

A member of the Board described pursuant to paragraph (a) of subsection 2 of NRS 640C.150 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.

~~{Sec. 41.}~~ Sec. 79. NRS 640C.150 is hereby amended to read as follows:

640C.150 1. The Board of Massage Therapists is hereby created. The Board consists of seven members appointed pursuant to this ~~{section}~~ chapter and one nonvoting advisory member appointed pursuant to NRS 640C.160.

2. The Governor shall appoint to the Board seven members as follows:

(a) Six members who:

- (1) Are licensed to practice massage therapy in this State; and
- (2) Have engaged in the practice of massage therapy for the 2 years immediately preceding their appointment.

➡ Of the six members appointed pursuant to this paragraph, three members must be residents of Clark County, two members must be residents of Washoe County and one member must be a resident of a county other than Clark County or Washoe County.

(b) One member who is a member of the general public. This member must not be:

- (1) A massage therapist; or
- (2) The spouse or the parent or child, by blood, marriage or adoption, of a massage therapist.

~~3. [The Governor may, in making his appointments to the Board pursuant to paragraph (a) of subsection 2, consider for appointment to the Board a person recommended to him by any person or group.]~~

~~4.]~~ The members who are appointed to the Board pursuant to paragraph (a) of subsection 2 must continue to practice massage therapy in this State while they are members of the Board.

~~{5-}~~ 4. After the initial terms, the term of each member of the Board is 4 years. A member may continue in office until the appointment of a successor.

~~{6-}~~ 5. A member of the Board may not serve more than two consecutive terms. A former member of the Board is eligible for reappointment to the Board if that person has not served on the Board during the 4 years immediately preceding the reappointment.

~~{7-}~~ 6. A vacancy must be filled by appointment for the unexpired term in the same manner as the original appointment.

~~{8-}~~ 7. The Governor may remove any member of the Board for incompetence, neglect of duty, moral turpitude or misfeasance, malfeasance or nonfeasance in office.

~~{Sec-42-}~~ Sec. 80. Chapter 641 of NRS is hereby amended by adding thereto a new section to read as follows:

A member of the Board described pursuant to paragraph (a) of subsection 1 of NRS 641.040 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.

~~{Sec-43-}~~ Sec. 81. Chapter 641A of NRS is hereby amended by adding thereto a new section to read as follows:

A member of the Board described pursuant to paragraph (a) of subsection 1 of NRS 641A.100 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.

~~{Sec-44-}~~ Sec. 82. Chapter 641B of NRS is hereby amended by adding thereto a new section to read as follows:

A member of the Board described pursuant to subsection 2 of NRS 641B.100 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.

~~[Sec. 45.]~~ Sec. 83. Chapter 641C of NRS is hereby amended by adding thereto a new section to read as follows:

A member of the Board described pursuant to paragraph (a), (b) or (c) of subsection 2 of NRS 641C.150 must be selected pursuant to section 1 of this act in addition to any other requirements of this chapter.

Sec. 84. NRS 652.210 is hereby amended to read as follows:

652.210 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,]~~ licensed pursuant to chapter 630 or 633 of NRS, 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 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.

Sec. 85. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

- (1) A person who possesses some or all of the powers of a peace officer;
- (2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;
- (3) A member of a volunteer fire department;
- (4) A jailer, guard, matron or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require him to make home visits.

(c) "Provider of health care" means a physician, a physician assistant ~~[,]~~ licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, ~~[an osteopathic physician's assistant,]~~ a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air

ambulance, a psychologist, a social worker, a marriage and family therapist and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) of this subsection does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(c) If paragraph (d) of this subsection does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event, and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

Sec. 86. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant, ~~or~~ licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Any employee of the Department of Health and Human Services.

(g) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(h) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(i) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(j) Every social worker.

(k) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney and the Aging Services Division of the Department of Health and Human Services his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded to the Aging Services Division within 90 days after the completion of the report.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 87. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant ~~+~~ licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate

prosecuting attorney his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 88. NRS 244.1605 is hereby amended to read as follows:

244.1605 The boards of county commissioners may:

1. Establish, equip and maintain limited medical facilities in the outlying areas of their respective counties to provide outpatient care and emergency treatment to the residents of and those falling sick or being injured or maimed in those areas.

2. Provide a full-time or part-time staff for the facilities which may include a physician, a ~~licensed~~ physician assistant ~~[]~~ licensed pursuant to chapter 630 or 633 of NRS, a registered nurse or a licensed practical nurse, a certified emergency medical technician and such other personnel as the board deems necessary or appropriate to ensure adequate staffing commensurate with the needs of the area in which the facility is located.

3. Fix the charges for the medical and nursing care and medicine furnished by the facility to those who are able to pay for them, and to provide that care and medicine free of charge to those persons who qualify as medical indigents under the county's criteria of eligibility for medical care.

4. Purchase, equip and maintain, either in connection with a limited medical facility as authorized in this section or independent therefrom, ambulances and ambulance services for the benefit of the residents of and those falling sick or being injured or maimed in the outlying areas.

Sec. 89. NRS 244.3821 is hereby amended to read as follows:

244.3821 1. In addition to the powers elsewhere conferred upon all counties, except as otherwise provided in subsection 2, any county may establish a medical scholarship program to induce students in the medical professions to return to the county for practice.

2. Any county whose population is 100,000 or more may only establish a medical scholarship program to induce students in the medical professions to return to the less populous rural communities of the county for practice.

3. Students in the medical professions for the purposes of NRS 244.382 to 244.3823, inclusive, include persons studying to be physician assistants ~~[]~~ licensed pursuant to chapter 630 or 633 of NRS.

4. The board of county commissioners of a county that has established a medical scholarship program may appropriate money from the general fund of the county for medical scholarship funds and may accept private contributions to augment the scholarship funds.

Sec. 90. NRS 397.0617 is hereby amended to read as follows:

397.0617 1. The provisions of this section apply only to support fees received by a student on or after July 1, 1997.

2. The three Nevada State Commissioners, acting jointly, may require a student who is certified to study to practice in a profession which could benefit a medically underserved area of this State, as that term is defined by the Officer of Rural Health of the University of Nevada School of Medicine, to practice in such an area or to practice in an area designated by the Secretary of Health and Human Services:

(a) Pursuant to 42 U.S.C. § 254c, as containing a medically underserved population; or

(b) Pursuant to 42 U.S.C. § 254e, as a health professional shortage area, ➔ as a condition to receiving a support fee.

3. If a person agrees to practice in a medically underserved area of this State pursuant to subsection 2 for at least 2 years, the three Nevada State Commissioners, acting jointly, may forgive the portion of the support fee designated as the loan of the person.

4. If a person returns to this State but does not practice in a medically underserved area of this State pursuant to subsection 2 for at least 2 years, the three Nevada State Commissioners, acting jointly, shall assess a default charge in an amount not less than three times the portion of the support fee designated as the loan of the person, plus interest.

5. As used in this section, a "profession which could benefit a medically underserved area of this State" includes, without limitation, dentistry, physical therapy, pharmacy and practicing as a physician assistant ~~or~~ licensed pursuant to chapter 630 or 633 of NRS.

Sec. 91. 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, ~~and~~ licensed pursuant to chapter 630 or 633 of NRS, 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 the appropriate medical examiner or coroner, who shall investigate the report and submit to an agency which provides child welfare services his written findings. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 92. NRS 433A.165 is hereby amended to read as follows:

433A.165 1. Before an allegedly mentally ill person may be transported to a public or private mental health facility pursuant to NRS 433A.160, the person must:

(a) First be examined by a licensed physician or physician assistant licensed pursuant to chapter 630 or 633 of NRS or an advanced practitioner of nursing to determine whether the person has a medical problem, other than a psychiatric problem, which requires immediate treatment; and

(b) If such treatment is required, be admitted for the appropriate medical care:

(1) To a hospital if the person is in need of emergency services or care; or

(2) To another appropriate medical facility if the person is not in need of emergency services or care.

2. The examination and any transfer of the person from a facility when the person has an emergency medical condition and has not been stabilized must be conducted in compliance with:

(a) The requirements of 42 U.S.C. § 1395dd and any regulations adopted pursuant thereto, and must involve a person authorized pursuant to federal law to conduct such an examination or certify such a transfer; and

(b) The provisions of NRS 439B.410.

3. The cost of the examination must be paid by the county in which the allegedly mentally ill person resides if services are provided at a county hospital located in that county or a hospital or other medical facility designated by that county, unless the cost is voluntarily paid by the allegedly mentally ill person or, on his behalf, by his insurer or by a state or federal program of medical assistance.

4. The county may recover all or any part of the expenses paid by it, in a civil action against:

- (a) The person whose expenses were paid;
- (b) The estate of that person; or
- (c) A responsible relative as prescribed in NRS 433A.610, to the extent that financial ability is found to exist.

5. The cost of treatment, including hospitalization, for an indigent must be paid pursuant to NRS 428.010 by the county in which the allegedly mentally ill person resides.

6. The Division shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations that:

(a) Define "emergency services or care" as that term is used in this section; and

(b) Prescribe the type of medical facility that a person may be admitted to pursuant to subparagraph (2) of paragraph (b) of subsection 1.

7. As used in this section, "medical facility" has the meaning ascribed to it in NRS 449.0151.

Sec. 93. NRS 440.415 is hereby amended to read as follows:

440.415 1. A physician who anticipates the death of a patient because of an illness, infirmity or disease may authorize a specific registered nurse or physician assistant or the registered nurses or physician assistants employed by a medical facility or program for hospice care to make a pronouncement of death if they attend the death of the patient.

2. Such an authorization is valid for 120 days. Except as otherwise provided in subsection 3, the authorization must:

- (a) Be a written order entered on the chart of the patient;
- (b) State the name of the registered nurse or nurses or physician assistant or assistants authorized to make the pronouncement of death; and
- (c) Be signed and dated by the physician.

3. If the patient is in a medical facility or under the care of a program for hospice care, the physician may authorize the registered nurses or physician assistants employed by the facility or program to make pronouncements of death without specifying the name of each nurse or physician assistant, as applicable.

4. If a pronouncement of death is made by a registered nurse or physician assistant, the physician who authorized that action shall sign the medical certificate of death within 24 hours after being presented with the certificate.

5. If a patient in a medical facility is pronounced dead by a registered nurse or physician assistant employed by the facility, the registered nurse or physician assistant may release the body of the patient to a licensed funeral director pending the completion of the medical certificate of death by the attending physician if the physician or the medical director or chief of the medical staff of the facility has authorized the release in writing.

6. The Board may adopt regulations concerning the authorization of a registered nurse or physician assistant to make pronouncements of death.

7. As used in this section:

- (a) "Medical facility" means:

- (1) A facility for skilled nursing as defined in NRS 449.0039;
- (2) A facility for hospice care as defined in NRS 449.0033;
- (3) A hospital as defined in NRS 449.012;
- (4) An agency to provide nursing in the home as defined in NRS 449.0015; or
- (5) A facility for intermediate care as defined in NRS 449.0038.

(b) "Physician assistant" means a person who holds a license as a physician assistant pursuant to chapter 630 or 633 of NRS. ~~for a certificate as an osteopathic physician's assistant pursuant to chapter 633 of NRS.~~

(c) "Program for hospice care" means a program for hospice care licensed pursuant to chapter 449 of NRS.

(d) "Pronouncement of death" means a declaration of the time and date when the cessation of the cardiovascular and respiratory functions of a patient occurs as recorded in the patient's medical record by the attending provider of health care in accordance with the provisions of this chapter.

Sec. 94. NRS 441A.110 is hereby amended to read as follows:

441A.110 "Provider of health care" means a physician, nurse, ~~physician assistant~~ or veterinarian licensed in accordance with state law ~~or~~ or a physician assistant licensed pursuant to chapter 630 or 633 of NRS.

Sec. 95. NRS 441A.540 is hereby amended to read as follows:

441A.540 1. If a person infected with or exposed to a communicable disease is voluntarily isolated or quarantined in a public or private medical facility, the facility shall not change the status of the person to an emergency isolation or quarantine unless, before the change in status is made:

(a) The facility provides:

(1) An application to a health authority for an emergency isolation or quarantine pursuant to NRS 441A.560; and

(2) The certificate of a health authority, physician, ~~licensed~~ physician assistant licensed pursuant to chapter 630 or 633 of NRS or registered nurse to a health authority pursuant to NRS 441A.570; or

(b) The facility receives an order for isolation or quarantine issued by a health authority.

2. A person whose status is changed to an emergency isolation or quarantine pursuant to subsection 1:

(a) Must not be detained in excess of 48 hours after the change in status is made, unless within that period a written petition is filed by a health authority with the clerk of the district court pursuant to NRS 441A.600; and

(b) May, immediately after his status is changed, seek an injunction or other appropriate process in district court challenging his detention.

3. If the period specified in subsection 2 expires on a day on which the office of the clerk of the district court is not open, the written petition must be filed on or before the close of the business day next following the expiration of that period.

4. Nothing in this section limits the actions that a public or private medical facility may take to prevent or limit the transmission of

communicable diseases within the medical facility, including, without limitation, practices for the control of infections.

Sec. 96. NRS 441A.560 is hereby amended to read as follows:

441A.560 1. An application to a health authority for an order of emergency isolation or quarantine of a person or a group of persons alleged to have been infected with or exposed to a communicable disease may only be made by another health authority, a physician, a ~~licensed~~ physician assistant ~~or~~ licensed pursuant to chapter 630 or 633 of NRS, a registered nurse or a medical facility by submitting the certificate required by NRS 441A.570. Within its jurisdiction, upon application or on its own, subject to the provisions of NRS 441A.500 to 441A.720, inclusive, a health authority may:

(a) Pursuant to its own order and without a warrant:

(1) Take a person or group of persons alleged to and reasonably believed by the health authority to have been infected with or exposed to a communicable disease into custody in any safe location under emergency isolation or quarantine for testing, examination, observation and the provision of or arrangement for the provision of consensual medical treatment; and

(2) Transport the person or group of persons alleged to and reasonably believed by the health authority to have been infected with or exposed to a communicable disease to a public or private medical facility, a residence or other safe location for that purpose, or arrange for the person or group of persons to be transported for that purpose by:

(I) A local law enforcement agency;

(II) A system for the nonemergency medical transportation of persons whose operation is authorized by the Transportation Services Authority; or

(III) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

➡ only if the health authority acting in good faith has, based upon personal observation, its own epidemiological investigation or an epidemiological investigation by another health authority, a physician, a ~~licensed~~ physician assistant licensed pursuant to chapter 630 or 633 of NRS or a registered nurse as stated in a certificate submitted pursuant to NRS 441A.570, if such a certificate was submitted, of the person or group of persons alleged to have been infected with or exposed to a communicable disease, a reasonable factual and medical basis to believe that the person or group of persons has been infected with or exposed to a communicable disease, and that because of the risks of that disease, the person or group of persons is likely to be an immediate threat to the health of members of the public who have not been infected with or exposed to the communicable disease.

(b) Petition a district court for an emergency order requiring:

(1) Any health authority or peace officer to take a person or group of persons alleged to have been infected with or exposed to a communicable disease into custody to allow the health authority to investigate, file and

prosecute a petition for the involuntary court-ordered isolation or quarantine of the person or group of persons alleged to have been infected with or exposed to a communicable disease in the manner set forth in NRS 441A.500 to 441A.720, inclusive; and

(2) Any agency, system or service described in subparagraph (2) of paragraph (a) to transport, in accordance with such court order, the person or group of persons alleged to have been infected with or exposed to a communicable disease to a public or private medical facility, a residence or other safe location for that purpose.

2. The district court may issue an emergency order for isolation or quarantine pursuant to paragraph (b) of subsection 1:

(a) Only for the time deemed necessary by the court to allow a health authority to investigate, file and prosecute each petition for involuntary court-ordered isolation or quarantine pursuant to NRS 441A.500 to 441A.720, inclusive; and

(b) Only if it is satisfied that there is probable cause to believe that the person or group of persons alleged to have been infected with or exposed to a communicable disease has been infected with or exposed to a communicable disease, and that because of the risks of that disease, the person or group of persons is likely to be an immediate threat to the health of the public.

Sec. 97. NRS 441A.570 is hereby amended to read as follows:

441A.570 A health authority shall not accept an application for an emergency isolation or quarantine under NRS 441A.560 unless that application is accompanied by a certificate of another health authority or a physician, ~~licensed~~ physician assistant licensed pursuant to chapter 630 or 633 of NRS or registered nurse stating that he has examined the person or group of persons alleged to have been infected with or exposed to a communicable disease or has investigated the circumstances of potential infection or exposure regarding the person or group of persons alleged to have been infected with or exposed to a communicable disease and that he has concluded that the person or group of persons has been infected with or exposed to a communicable disease, and that because of the risks of that disease, the person or group of persons is likely to be an immediate threat to the health of the public. The certificate required by this section may be obtained from a physician, ~~licensed~~ physician assistant licensed pursuant to chapter 630 or 633 of NRS or registered nurse who is employed by the public or private medical facility in which the person or group of persons is admitted or detained and from the facility from which the application is made.

Sec. 98. NRS 441A.580 is hereby amended to read as follows:

441A.580 1. No application or certificate authorized under NRS 441A.560 or 441A.570 may be considered if made by a person on behalf of a medical facility or by a health authority, physician, ~~licensed~~ physician assistant licensed pursuant to chapter 630 or 633 of NRS or registered nurse who is related by blood or marriage to the person alleged to

have been infected with or exposed to a communicable disease, or who is financially interested, in a manner that would be prohibited pursuant to NRS 439B.425 if the application or certificate were deemed a referral, in a medical facility in which the person alleged to have been infected with or exposed to a communicable disease is to be detained.

2. No application or certificate of any health authority or person authorized under NRS 441A.560 or 441A.570 may be considered unless it is based on personal observation, examination or epidemiological investigation of the person or group of persons alleged to have been infected with or exposed to a communicable disease made by such health authority or person not more than 72 hours before the making of the application or certificate. The certificate must set forth in detail the facts and reasons on which the health authority or person who submitted the certificate pursuant to NRS 441A.570 based his opinions and conclusions.

Sec. 99. NRS 441A.600 is hereby amended to read as follows:

441A.600 A proceeding for an involuntary court-ordered isolation or quarantine of any person in this State may be commenced by a health authority filing a petition with the clerk of the district court of the county where the person is to be isolated or quarantined. The petition may be pled in the alternative for both isolation and quarantine, if required by developing or changing facts, and must be accompanied:

1. By a certificate of a health authority or a physician, a ~~licensed~~ physician assistant licensed pursuant to chapter 630 or 633 of NRS or a registered nurse stating that he has examined the person alleged to have been infected with or exposed to a communicable disease or has investigated the circumstances of potential infection or exposure regarding the person alleged to have been infected with or exposed to a communicable disease and has concluded that the person has been infected with or exposed to a communicable disease, and that because of the risks of that disease, the person is likely to be an immediate threat to the health of the public; or

2. By a sworn written statement by the health authority that:

(a) The health authority has, based upon its personal observation of the person alleged to have been infected with or exposed to a communicable disease, or its epidemiological investigation of the circumstances of potential infection or exposure regarding the person alleged to have been infected with or exposed to a communicable disease, a reasonable factual and medical basis to believe that the person has been infected with or exposed to a communicable disease and, that because of the risks of that disease, the person is likely to be an immediate threat to the health of the public; and

(b) The person alleged to have been infected with or exposed to a communicable disease has refused to submit to voluntary isolation or quarantine, examination, testing, or treatment known to control or resolve the transmission of the communicable disease.

Sec. 100. NRS 441A.610 is hereby amended to read as follows:

441A.610 In addition to the requirements of NRS 441A.600, a petition filed pursuant to that section with the clerk of the district court to commence proceedings for involuntary court-ordered isolation or quarantine of a person pursuant to NRS 441A.540 or 441A.550 must include a certified copy of:

1. If an application for an order of emergency isolation or quarantine of the person was made pursuant to NRS 441A.560, the application for the emergency isolation or quarantine of the person made to the petitioning health authority pursuant to NRS 441A.560; and

2. A petition executed by a health authority, including, without limitation, a sworn statement that:

(a) The health authority or a physician, ~~licensed~~ physician assistant licensed pursuant to chapter 630 or 633 of NRS or registered nurse who submitted a certificate pursuant to NRS 441A.570, if such a certificate was submitted, has examined the person alleged to have been infected with or exposed to a communicable disease;

(b) In the opinion of the health authority, there is a reasonable degree of certainty that the person alleged to have been infected with or exposed to a communicable disease is currently capable of transmitting the disease, or is likely to become capable of transmitting the disease in the near future;

(c) Based on either the health authority's personal observation of the person alleged to have been infected with or exposed to the communicable disease or the health authority's epidemiological investigation of the circumstances of potential infection or exposure regarding the person alleged to have been infected with or exposed to the communicable disease, and on other facts set forth in the petition, the person likely poses an immediate threat to the health of the public; and

(d) In the opinion of the health authority, involuntary isolation or quarantine of the person alleged to have been infected with or exposed to a communicable disease to a public or private medical facility, residence or other safe location is necessary to prevent the person from immediately threatening the health of the public.

Sec. 101. NRS 441A.630 is hereby amended to read as follows:

441A.630 1. After the filing of a petition to commence proceedings for the involuntary court-ordered isolation or quarantine of a person pursuant to NRS 441A.600 or 441A.610, the court shall promptly cause two or more physicians or ~~licensed~~ physician assistants ~~to~~ licensed pursuant to chapter 630 or 633 of NRS, at least one of whom must always be a physician, to either examine the person alleged to have been infected with or exposed to a communicable disease or assess the likelihood that the person alleged to have been infected with or exposed to a communicable disease has been so infected or exposed.

2. To conduct the examination or assessment of a person who is not being detained at a public or private medical facility, residence or other safe location under emergency isolation or quarantine pursuant to the emergency order of a health authority or court made pursuant to NRS 441A.550 or

441A.560, the court may order a peace officer to take the person into protective custody and transport him to a public or private medical facility, residence or other safe location where he may be detained until a hearing is held upon the petition.

3. If the person is being detained at his home or other place of residence under an emergency order of a health authority or court pursuant to NRS 441A.550 or 441A.560, he may be allowed to remain in his home or other place of residence pending an ordered assessment, examination or examinations and to return to his home or other place of residence upon completion of the assessment, examination or examinations if such remaining or returning would not constitute an immediate threat to others residing in his home or place of residence.

4. Each physician and ~~licensed~~ physician assistant licensed pursuant to chapter 630 or 633 of NRS who examines or assesses a person pursuant to subsection 1 shall, not later than 24 hours before the hearing set pursuant to NRS 441A.620, submit to the court in writing a summary of his findings and evaluation regarding the person alleged to have been infected with or exposed to a communicable disease.

Sec. 102. NRS 441A.640 is hereby amended to read as follows:

441A.640 1. The Health Division shall establish such evaluation teams as are necessary to aid the courts under NRS 441A.630 and 441A.700.

2. Each team must be composed of at least two physicians, or at least one physician and one physician assistant ~~licensed~~ licensed pursuant to chapter 630 or 633 of NRS.

3. Fees for the evaluations must be established and collected as set forth in NRS 441A.650.

Sec. 103. NRS 441A.670 is hereby amended to read as follows:

441A.670 In proceedings for involuntary court-ordered isolation or quarantine, the court shall hear and consider all relevant testimony, including, but not limited to, the testimony of examining personnel who participated in the evaluation of the person alleged to have been infected with or exposed to a communicable disease and the certificates, if any, of a health authority or a physician, ~~licensed~~ physician assistant licensed pursuant to chapter 630 or 633 of NRS or registered nurse accompanying the petition.

Sec. 104. NRS 441A.720 is hereby amended to read as follows:

441A.720 When any involuntary court isolation or quarantine is ordered under the provisions of NRS 441A.500 to 441A.720, inclusive, the involuntarily isolated or quarantined person, together with the court orders, any certificates of the health authorities, physicians, ~~licensed~~ physician assistants licensed pursuant to chapter 630 or 633 of NRS or registered nurses, the written summary of the evaluation team and a full and complete transcript of the notes of the official reporter made at the examination of such person before the court, must be delivered to the sheriff of the appropriate county who must be ordered to:

1. Transport the person; or

2. Arrange for the person to be transported by:

(a) A system for the nonemergency medical transportation of persons whose operation is authorized by the Transportation Services Authority; or

(b) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

➔ to the appropriate public or private medical facility, residence or other safe location.

Sec. 105. NRS 442.003 is hereby amended to read as follows:

442.003 As used in this chapter, unless the context requires otherwise:

1. "Advisory Board" means the Advisory Board on Maternal and Child Health.

2. "Department" means the Department of Health and Human Services.

3. "Director" means the Director of the Department.

4. "Fetal alcohol syndrome" includes fetal alcohol effects.

5. "Health Division" means the Health Division of the Department.

6. "Obstetric center" has the meaning ascribed to it in NRS 449.0155.

7. "Provider of health care or other services" means:

(a) An alcohol and drug abuse counselor who is licensed or certified pursuant to chapter 641C of NRS;

(b) A physician or a physician assistant who is licensed pursuant to chapter 630 or ~~an osteopathic physician who is licensed pursuant to chapter 633~~ of NRS and who practices in the area of obstetrics and gynecology, family practice, internal medicine, pediatrics or psychiatry;

(c) A licensed nurse;

(d) A licensed psychologist;

(e) A licensed marriage and family therapist;

(f) A licensed social worker; or

(g) The holder of a certificate of registration as a pharmacist.

Sec. 106. NRS 442.119 is hereby amended to read as follows:

442.119 As used in NRS 442.119 to 442.1198, inclusive, unless the context otherwise requires:

1. "Health officer" includes a local health officer, a city health officer, a county health officer and a district health officer.

2. "Medicaid" has the meaning ascribed to it in NRS 439B.120.

3. "Medicare" has the meaning ascribed to it in NRS 439B.130.

4. "Provider of prenatal care" means:

(a) A physician who is licensed in this State and certified in obstetrics and gynecology, family practice, general practice or general surgery.

(b) A certified nurse midwife who is licensed by the State Board of Nursing.

(c) An advanced practitioner of nursing who has specialized skills and training in obstetrics or family nursing.

(d) A physician assistant licensed pursuant to chapter 630 or 633 of NRS who has specialized skills and training in obstetrics or family practice.

Sec. 107. NRS 449.0175 is hereby amended to read as follows:

449.0175 "Rural clinic" means a facility located in an area that is not designated as an urban area by the Bureau of the Census, where medical services are provided by a physician assistant licensed pursuant to chapter 630 or 633 of NRS or an advanced practitioner of nursing under the supervision of a licensed physician.

Sec. 108. NRS 453.038 is hereby amended to read as follows:

453.038 "Chart order" means an order entered on the chart of a patient:

1. In a hospital, facility for intermediate care or facility for skilled nursing which is licensed as such by the Health Division of the Department; or

2. Under emergency treatment in a hospital by a physician, advanced practitioner of nursing, dentist or podiatric physician, or on the written or oral order of a physician, physician assistant ~~or~~ licensed pursuant to chapter 630 or 633 of NRS, advanced practitioner of nursing, dentist or podiatric physician authorizing the administration of a drug to the patient.

Sec. 109. NRS 453.091 is hereby amended to read as follows:

453.091 1. "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container.

2. "Manufacture" does not include the preparation, compounding, packaging or labeling of a substance by a pharmacist, physician, physician assistant ~~or~~ licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician, advanced practitioner of nursing or veterinarian:

(a) As an incident to his administering or dispensing of a substance in the course of his professional practice; or

(b) By his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

Sec. 110. NRS 453.126 is hereby amended to read as follows:

453.126 "Practitioner" means:

1. A physician, dentist, veterinarian or podiatric physician who holds a license to practice his profession in this State and is registered pursuant to this chapter.

2. An advanced practitioner of nursing who holds a certificate from the State Board of Nursing and a certificate from the State Board of Pharmacy authorizing him to dispense or to prescribe and dispense controlled substances.

3. A scientific investigator or a pharmacy, hospital or other institution licensed, registered or otherwise authorized in this State to distribute, dispense, conduct research with respect to, to administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

4. A euthanasia technician who is licensed by the Nevada State Board of Veterinary Medical Examiners and registered pursuant to this chapter, while he possesses or administers sodium pentobarbital pursuant to his license and registration.

5. A physician assistant who:

(a) Holds a license from the Board of Medical Examiners; and
 (b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances under the supervision of a physician as required by chapter 630 of NRS.

6. ~~[An osteopathic physician's]~~ A physician assistant who:

(a) Holds a ~~[certificate]~~ license from the State Board of Osteopathic Medicine; and
 (b) Is authorized by the Board to possess, administer, prescribe or dispense controlled substances under the supervision of an osteopathic physician as required by chapter 633 of NRS.

7. An optometrist who is certified by the Nevada State Board of Optometry to prescribe and administer therapeutic pharmaceutical agents pursuant to NRS 636.288, when he prescribes or administers therapeutic pharmaceutical agents within the scope of his certification.

Sec. 111. NRS 453.128 is hereby amended to read as follows:

453.128 1. "Prescription" means:

(a) An order given individually for the person for whom prescribed, directly from a physician, ~~[osteopathic physician's assistant,]~~ physician assistant ~~[,]~~ licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician, optometrist, advanced practitioner of nursing or veterinarian, or his agent, to a pharmacist or indirectly by means of an order signed by the practitioner or an electronic transmission from the practitioner to a pharmacist; or

(b) A chart order written for an inpatient specifying drugs which he is to take home upon his discharge.

2. The term does not include a chart order written for an inpatient for use while he is an inpatient.

Sec. 112. NRS 453.226 is hereby amended to read as follows:

453.226 1. Every practitioner or other person who dispenses any controlled substance within this State or who proposes to engage in the dispensing of any controlled substance within this State shall obtain biennially a registration issued by the Board in accordance with its regulations.

2. A person registered by the Board in accordance with the provisions of NRS 453.011 to 453.552, inclusive, to dispense or conduct research with controlled substances may possess, dispense or conduct research with those substances to the extent authorized by the registration and in conformity with the other provisions of those sections.

3. The following persons are not required to register and may lawfully possess and distribute controlled substances pursuant to the provisions of NRS 453.011 to 453.552, inclusive:

(a) An agent or employee of a registered dispenser of a controlled substance if he is acting in the usual course of his business or employment;

(b) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(c) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a physician, ~~osteopathic physician's assistant,~~ physician assistant ~~or~~ licensed pursuant to chapter 630 or 633 of NRS, dentist, advanced practitioner of nursing, podiatric physician or veterinarian or in lawful possession of a schedule V substance; or

(d) A physician who:

(1) Holds a locum tenens license issued by the Board of Medical Examiners or a temporary license issued by the State Board of Osteopathic Medicine; and

(2) Is registered with the Drug Enforcement Administration at a location outside this State.

4. The Board may waive the requirement for registration of certain dispensers if it finds it consistent with the public health and safety.

5. A separate registration is required at each principal place of business or professional practice where the applicant dispenses controlled substances.

6. The Board may inspect the establishment of a registrant or applicant for registration in accordance with the Board's regulations.

Sec. 113. NRS 453.336 is hereby amended to read as follows:

453.336 1. A person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, ~~osteopathic physician's assistant,~~ physician assistant ~~or~~ licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician, optometrist, advanced practitioner of nursing or veterinarian while acting in the course of his professional practice, or except as otherwise authorized by the provisions of NRS 453.005 to 453.552, inclusive.

2. Except as otherwise provided in subsections 3 and 4 and in NRS 453.3363, and unless a greater penalty is provided in NRS 212.160, 453.3385, 453.339 or 453.3395, a person who violates this section shall be punished:

(a) For the first or second offense, if the controlled substance is listed in schedule I, II, III or IV, for a category E felony as provided in NRS 193.130.

(b) For a third or subsequent offense, if the controlled substance is listed in schedule I, II, III or IV, or if the offender has previously been convicted two or more times in the aggregate of any violation of the law of the United States or of any state, territory or district relating to a controlled substance,

for a category D felony as provided in NRS 193.130, and may be further punished by a fine of not more than \$20,000.

(c) For the first offense, if the controlled substance is listed in schedule V, for a category E felony as provided in NRS 193.130.

(d) For a second or subsequent offense, if the controlled substance is listed in schedule V, for a category D felony as provided in NRS 193.130.

3. Unless a greater penalty is provided in NRS 212.160, 453.337 or 453.3385, a person who is convicted of the possession of flunitrazepam or gamma-hydroxybutyrate, or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor, 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.

4. Unless a greater penalty is provided pursuant to NRS 212.160, a person who is convicted of the possession of 1 ounce or less of marijuana:

(a) For the first offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than \$600; or

(2) Examined by an approved facility for the treatment of abuse of drugs to determine whether he is a drug addict and is likely to be rehabilitated through treatment and, if the examination reveals that he is a drug addict and is likely to be rehabilitated through treatment, assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.

(b) For the second offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than \$1,000; or

(2) Assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.

(c) For the third offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140.

(d) For a fourth or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. As used in this section, "controlled substance" includes flunitrazepam, gamma-hydroxybutyrate and each substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.

Sec. 114. NRS 453.371 is hereby amended to read as follows:

453.371 As used in NRS 453.371 to 453.552, inclusive:

1. "Advanced practitioner of nursing" means a person who holds a certificate of recognition granted pursuant to NRS 632.237 and is registered with the Board.

2. "Medical intern" means a medical graduate acting as an assistant in a hospital for the purpose of clinical training.

3. "Pharmacist" means a person who holds a certificate of registration issued pursuant to NRS 639.127 and is registered with the Board.

4. "Physician," "dentist," "podiatric physician," "veterinarian" and "euthanasia technician" mean persons authorized by a license to practice their respective professions in this State who are registered with the Board.

5. "Physician assistant" means a person who is registered with the Board and:

(a) Holds a license issued pursuant to NRS 630.273; or

(b) Holds a ~~certificate~~ license issued pursuant to ~~[NRS 633.451.]~~ section 29 of this act.

Sec. 115. NRS 454.213 is hereby amended to read as follows:

454.213 A drug or medicine referred to in NRS 454.181 to 454.371, inclusive, may be possessed and administered by:

1. A practitioner.

2. A physician assistant licensed pursuant to chapter 630 or 633 of NRS, at the direction of his supervising physician or a licensed dental hygienist acting in the office of and under the supervision of a dentist.

3. Except as otherwise provided in subsection 4, a registered nurse licensed to practice professional nursing or licensed practical nurse, at the direction of a prescribing physician, physician assistant, ~~[.]~~ licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician or advanced practitioner of nursing, or pursuant to a chart order, for administration to a patient at another location.

4. In accordance with applicable regulations of the Board, a registered nurse licensed to practice professional nursing or licensed practical nurse who is:

(a) Employed by a health care agency or health care facility that is authorized to provide emergency care, or to respond to the immediate needs of a patient, in the residence of the patient; and

(b) Acting under the direction of the medical director of that agency or facility who works in this State.

5. An intermediate emergency medical technician or an advanced emergency medical technician, as authorized by regulation of the State Board of Pharmacy and in accordance with any applicable regulations of:

(a) The State Board of Health in a county whose population is less than 100,000;

(b) A county board of health in a county whose population is 100,000 or more; or

(c) A district board of health created pursuant to NRS 439.362 or 439.370 in any county.

6. A respiratory therapist employed in a health care facility. The therapist may possess and administer respiratory products only at the direction of a physician.

7. A dialysis technician, under the direction or supervision of a physician or registered nurse only if the drug or medicine is used for the process of renal dialysis.

8. A medical student or student nurse in the course of his studies at an approved college of medicine or school of professional or practical nursing, at the direction of a physician and:

(a) In the presence of a physician or a registered nurse; or

(b) Under the supervision of a physician or a registered nurse if the student is authorized by the college or school to administer the drug or medicine outside the presence of a physician or nurse.

↪ A medical student or student nurse may administer a dangerous drug in the presence or under the supervision of a registered nurse alone only if the circumstances are such that the registered nurse would be authorized to administer it personally.

9. Any person designated by the head of a correctional institution.

10. An ultimate user or any person designated by the ultimate user pursuant to a written agreement.

11. A nuclear medicine technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

12. A radiologic technologist, at the direction of a physician and in accordance with any conditions established by regulation of the Board.

13. A chiropractic physician, but only if the drug or medicine is a topical drug used for cooling and stretching external tissue during therapeutic treatments.

14. A physical therapist, but only if the drug or medicine is a topical drug which is:

(a) Used for cooling and stretching external tissue during therapeutic treatments; and

(b) Prescribed by a licensed physician for:

(1) Iontophoresis; or

(2) The transmission of drugs through the skin using ultrasound.

15. In accordance with applicable regulations of the State Board of Health, an employee of a residential facility for groups, as defined in NRS 449.017, pursuant to a written agreement entered into by the ultimate user.

16. A veterinary technician at the direction of his supervising veterinarian.

17. In accordance with applicable regulations of the Board, a registered pharmacist who:

(a) Is trained in and certified to carry out standards and practices for immunization programs;

(b) Is authorized to administer immunizations pursuant to written protocols from a physician; and

(c) Administers immunizations in compliance with the "Standards of Immunization Practices" recommended and approved by the United States Public Health Service Advisory Committee on Immunization Practices.

18. A person who is enrolled in a training program to become a physician assistant ~~is~~ *licensed pursuant to chapter 630 or 633 of NRS*, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician if the person possesses and administers the drug or

medicine in the same manner and under the same conditions that apply, respectively, to a physician assistant ~~or~~ licensed pursuant to chapter 630 or 633 of NRS, dental hygienist, intermediate emergency medical technician, advanced emergency medical technician, respiratory therapist, dialysis technician, nuclear medicine technologist, radiologic technologist, physical therapist or veterinary technician who may possess and administer the drug or medicine, and under the direct supervision of a person licensed or registered to perform the respective medical art or a supervisor of such a person.

Sec. 116. NRS 454.215 is hereby amended to read as follows:

454.215 A dangerous drug may be dispensed by:

1. A registered pharmacist upon the legal prescription from a practitioner or to a pharmacy in a correctional institution upon the written order of the prescribing practitioner in charge;
2. A pharmacy in a correctional institution, in case of emergency, upon a written order signed by the chief medical officer;
3. A practitioner, or a physician assistant licensed pursuant to chapter 630 or 633 of NRS if authorized by the Board;
4. A registered nurse, when the nurse is engaged in the performance of any public health program approved by the Board;
5. A medical intern in the course of his internship;
6. An advanced practitioner of nursing who holds a certificate from the State Board of Nursing and a certificate from the State Board of Pharmacy permitting him to dispense dangerous drugs;
7. A registered nurse employed at an institution of the Department of Corrections to an offender in that institution;
8. A registered pharmacist from an institutional pharmacy pursuant to regulations adopted by the Board; or
9. A registered nurse to a patient at a rural clinic that is designated as such pursuant to NRS 433.233 and that is operated by the Division of Mental Health and Developmental Services of the Department of Health and Human Services if the nurse is providing mental health services at the rural clinic,
 ➔ except that no person may dispense a dangerous drug in violation of a regulation adopted by the Board.

Sec. 117. NRS 454.221 is hereby amended to read as follows:

454.221 1. A person who furnishes any dangerous drug except upon the prescription of a practitioner is guilty of a category D felony and shall be punished as provided in NRS 193.130, unless the dangerous drug was obtained originally by a legal prescription.

2. The provisions of this section do not apply to the furnishing of any dangerous drug by:

- (a) A practitioner to his patients;
- (b) A physician assistant licensed pursuant to chapter 630 or 633 of NRS if authorized by the Board;

(c) A registered nurse while participating in a public health program approved by the Board, or an advanced practitioner of nursing who holds a certificate from the State Board of Nursing and a certificate from the State Board of Pharmacy permitting him to dispense dangerous drugs;

(d) A manufacturer or wholesaler or pharmacy to each other or to a practitioner or to a laboratory under records of sales and purchases that correctly give the date, the names and addresses of the supplier and the buyer, the drug and its quantity;

(e) A hospital pharmacy or a pharmacy so designated by a county health officer in a county whose population is 100,000 or more, or by a district health officer in any county within its jurisdiction or, in the absence of either, by the State Health Officer or his designated Medical Director of Emergency Medical Services, to a person or agency described in subsection 3 of NRS 639.268 to stock ambulances or other authorized vehicles or replenish the stock; or

(f) A pharmacy in a correctional institution to a person designated by the Director of the Department of Corrections to administer a lethal injection to a person who has been sentenced to death.

Sec. 118. NRS 484.393 is hereby amended to read as follows:

484.393 1. The results of any blood test administered under the provisions of NRS 484.383 or 484.391 are not admissible in any hearing or criminal action arising out of acts alleged to have been committed 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 unless:

(a) The blood tested was withdrawn by a person, other than an arresting officer, who:

(1) Is a physician, physician assistant ~~or~~ *licensed pursuant to chapter 630 or 633 of NRS*, registered nurse, licensed practical nurse, emergency medical technician or a phlebotomist, technician, technologist or assistant employed in a medical laboratory; or

(2) Has special knowledge, skill, experience, training and education in withdrawing blood in a medically acceptable manner, including, without limitation, a person qualified as an expert on that subject in a court of competent jurisdiction or a person who has completed a course of instruction described in subsection 2 of NRS 652.127; and

(b) The test was performed on whole blood, except if the sample was clotted when it was received by the laboratory, the test may be performed on blood serum or plasma.

2. The limitation contained in paragraph (a) of subsection 1 does not apply to the taking of a chemical test of the urine, breath or other bodily substance.

3. No person listed in paragraph (a) of subsection 1 incurs any civil or criminal liability as a result of the administering of a blood test when requested by a police officer or the person to be tested to administer the test.

~~[Sec. 46.]~~ *Sec. 119. NRS 632.450 ~~[is]~~ , 633.431, 633.441, 633.451 and 633.461 are hereby repealed.*

Sec. 120. A certificate for an osteopathic physician's assistant that is current and valid on December 31, 2007, shall, on January 1, 2008, be deemed to be a license issued pursuant to section 29 of this act.

~~[Sec. 47.]~~ *Sec. 121. 1. This act becomes effective:*

~~[1.]~~ *(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 ~~[sections 12 and 13 of]~~ this act; and*

~~[2.]~~ *(b) On ~~[October 1, 2007,]~~ January 1, 2008, for all other purposes.*

2. The amendatory provisions of section 7 of this act expire by limitation on January 1, 2012.

3. Sections 11 and 25 of this act expire by limitation on January 1, 2012.

LEADLINES OF REPEALED SECTIONS

632.450 Schools of professional nursing: Minimum length of course of instruction.

633.431 Osteopathic physicians' assistants: Training programs and standards.

633.441 Osteopathic physicians' assistants: Application to employ assistant.

633.451 Osteopathic physicians' assistants: Approval of application to employ assistant; issuance and renewal of certificate.

633.461 Osteopathic physician's assistant: Scope of authorized activities.

Senator Heck moved the adoption of the amendment.

Remarks by Senator Heck.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 417.

Bill read second time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 328.

"SUMMARY—Enacts provisions to facilitate the construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation in certain counties. (BDR 32-955)"

"AN ACT relating to public mass transportation; enacting provisions to facilitate the construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation in certain counties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the regional transportation commission in a county whose population is 400,000 or more (currently Clark County) has the authority to provide for the construction and maintenance of benches and shelters for passengers of public mass transportation. (NRS 373.1183) This bill authorizes such a regional transportation commission to provide for the construction, installation and maintenance of transit stops in addition to benches and shelters. This bill also authorizes the regional transportation commission to locate such benches, shelters and transit stops within any public easement or right-of-way, including a public easement or right-of-way dedicated or restricted for use by any utility, if: (1) the public easement or right-of-way is adjacent or appurtenant to or within a reasonable proximity of any public highway; and (2) the benches, shelters and transit stops may be located safely within the public easement or right-of-way without damaging the facilities of other persons who are authorized to place their facilities within the public easement or right-of-way.

This bill also requires the regional transportation commission and the governmental entity that owns or controls the public easement or right-of-way to execute an interlocal or cooperative agreement that authorizes the construction, installation, maintenance and use of the benches, shelters or transit stops within the public easement or right-of-way.

Finally, if such benches, shelters or transit stops will be constructed or installed within any public easement located within the common area or common elements of a common-interest community governed by an association, the regional transportation commission must: (1) provide the governing body of the association with written notice of the intent to construct or install the benches, shelters or transit stops within the public easement; and (2) coordinate, to the extent practicable, with the governing body of the association to determine an appropriate location for the benches, shelters or transit stops within the public easement.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 373.1183 is hereby amended to read as follows:

373.1183 In a county whose population is 400,000 or more:

1. The commission shall provide for the construction, installation and maintenance of benches, ~~and~~ shelters *and transit stops* for passengers of public mass transportation.

2. In carrying out its duties pursuant to subsection 1, the commission may displace or limit competition in the construction, installation and maintenance of such benches ~~and shelters~~, *shelters and transit stops*. The commission may:

(a) Provide those services on an exclusive basis or adopt a regulatory scheme for controlling the provision of those services; or

(b) Grant an exclusive franchise to any person to provide those services.

3. ~~The~~ Subject to the provisions of subsections 4 and 5, the commission or any person who is authorized by the commission to provide for the

construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation may locate such benches, shelters and transit stops within any public easement or right-of-way, including, without limitation, a public easement or right-of-way dedicated or restricted for use by any utility, if:

(a) The public easement or right-of-way is adjacent or appurtenant to or within a reasonable proximity of any public highway; and

(b) The benches, shelters and transit stops may be located safely within the public easement or right-of-way without damaging the facilities of other persons who are authorized to place their facilities within the public easement or right-of-way.

➡ As used in this subsection, "public highway" means any street, road, alley, thoroughfare, way or place of any kind used by the public or open to the use of the public as a matter of right for the purpose of vehicular traffic.

4. Before the commission or any person authorized by the commission may construct or install any benches, shelters or transit stops within any public easement or right-of-way, the commission and the governmental entity that owns or controls the public easement or right-of-way shall execute an interlocal or cooperative agreement that authorizes the construction, installation, maintenance and use of the benches, shelters or transit stops within the public easement or right-of-way.

5. If the commission or any person authorized by the commission intends to construct or install any benches, shelters or transit stops within any public easement that is located within the common area or common elements of a common-interest community governed by an association, the commission shall:

(a) Provide the governing body of the association with written notice of the intent to construct or install the benches, shelters or transit stops within the public easement at least 30 days before such construction or installation begins; and

(b) Coordinate, to the extent practicable, with the governing body of the association to determine an appropriate location for the benches, shelters or transit stops within the public easement.

6. The commission shall post on each bench, ~~and~~ within each shelter ~~and~~ and near each transit stop a notice that provides a telephone number that a person may use to report damage to the bench ~~or shelter~~.

~~4.~~, shelter or transit stop.

~~5.~~ 7. No board of county commissioners, governing body of an incorporated city or town board may ~~provide~~.

(a) Provide for the construction, installation or maintenance of benches, ~~and~~ shelters and transit stops for passengers of public mass transportation ~~and~~ except with the approval of or at the request of the commission; or

(b) Adopt any ordinance, regulation or plan, enter into or approve any franchise, contract or agreement or take any other action that prohibits or unreasonably restricts the commission from providing for the construction,

installation or maintenance of benches, shelters and transit stops for passengers of public mass transportation.

Sec. 2. NRS 373.1185 is hereby amended to read as follows:

373.1185 1. In a county whose population is 400,000 or more, the commission shall establish an advisory committee to provide information and advice to the commission concerning the construction, *installation and maintenance of benches, [and] shelters and transit stops* for passengers of public mass transportation in the county. The membership of the advisory committee must consist of:

(a) Two members of the general public from each city within the county who are appointed by the governing body of that city; and

(b) Six members of the general public appointed by the commission.

2. Each member of the advisory committee serves a term of 1 year. A member may be reappointed for additional terms of 1 year in the same manner as the original appointment.

3. A vacancy occurring in the membership of the advisory committee must be filled in the same manner as the original appointment.

4. The advisory committee shall meet at least six times annually.

5. At its first meeting and annually thereafter, the advisory committee shall elect a chairman and vice chairman from among its members.

6. Each member of the advisory committee serves without compensation and is not entitled to receive a per diem allowance or travel expenses.

Sec. 3. This act becomes effective upon passage and approval.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 422.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 423.

"SUMMARY—Requires the ~~{State Environmental Commission to establish a program for the reduction of}~~ *creation of a registry and inventory of* greenhouse gases emitted ~~{by affected units}~~ in this State. (BDR 40-678)"

"AN ACT relating to pollution; requiring the State Environmental Commission to establish a ~~{program for the reduction of}~~ *registry* of greenhouse gases emitted by affected units in this State; ~~{setting forth certain required provisions that the Commission must include in the program; limiting the amount of greenhouse gases that certain affected units may emit;}~~ *requiring the State Department of Conservation and Natural Resources to issue a statewide inventory of greenhouse gas emissions;* providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State Environmental Commission may adopt certain regulations to prevent, abate and control air pollution and establish standards for air quality. (NRS 445B.210) Also under existing law, a district board of health, county board of health or board of county commissioners in each county whose population is 100,000 or more (currently Clark and Washoe Counties) must establish a program for the control of air pollution and administer that program. In any other county, or in any city, a similar program may be established through cooperative or interlocal agreement or the county or city may establish its own program for the control of air pollution. (NRS 445B.500)

Section 5 of this bill requires the Commission to establish, by regulation, a statewide ~~[program for the control]~~ registry of greenhouse gases emitted by certain generators of electricity in this State. Section 4 of this bill defines a "greenhouse gas" to mean carbon dioxide, ~~[hydro fluorocarbons]~~ hydrofluorocarbons, methane, nitrous oxide, ~~[per fluorocarbons]~~ perfluorocarbons and sulphur hexafluoride. ~~[The program must include, without limitation, a method for creating allowances of emissions from affected units and the manner in which the allowances must be banked and traded. Section 6 of this bill imposes a limitation on the annual amount of greenhouse gases that an affected unit may emit. The limitation becomes effective on January 1, 2011, and proceeds in accordance with a schedule set forth in section 6.]~~ Section 5 requires the Commission to prescribe the requirements and procedures for reporting the emissions of greenhouse gases that must be included in the registry, methods for identifying and measuring the greenhouse gases that must be reported and methods for independently verifying the information that is reported. The Commission is required to establish the reporting period, but the period must not be longer than 1 year. Finally, section 5 authorizes the Commission to establish procedures for the voluntary reporting of emissions of greenhouse gases from sources that are not otherwise required to report.

Section 6.5 of this bill requires the State Department of Conservation and Natural Resources to issue, at least every 4 years, a statewide inventory of greenhouse gas emissions in this State. The inventory must include the sources, types and amounts of the greenhouse gases, together with the Department's evaluation of the emissions, and must be supported with documentation.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 445B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[6.]~~ 6.5, inclusive, of this act.

Sec. 2. "Affected unit" means a facility for the generation of electricity that:

1. Has a maximum design capacity of at least ~~[25]~~ 5 megawatts;
2. ~~[Combusts a fuel that emits]~~ Emits a greenhouse gas; and
3. Generates electricity for sale.

Sec. 3. ~~["Allowance" means an authorization granted by the Commission pursuant to the program specified in section 5 of this act to emit 1 metric ton of carbon dioxide or an equivalent of carbon dioxide allocated to an affected unit by the Commission.] (Deleted by amendment.)~~

Sec. 4. "Greenhouse gas" means:

1. Carbon dioxide;
2. ~~Hydrofluorocarbons;~~ Hydrofluorocarbons;
3. Methane;
4. Nitrous oxide;
5. ~~Perfluorocarbons;~~ Perfluorocarbons; and
6. Sulphur hexafluoride.

Sec. 5. 1. In addition to any regulation adopted pursuant to NRS 445B.210 to prevent, abate and control air pollution, the Commission shall, by regulation, establish a statewide ~~program for the control of~~ registry of greenhouse gases emitted by affected units in this State ~~and~~ during the reporting period established by the Commission.

2. The ~~program~~ regulations must include, without limitation, provisions setting forth:

~~(a) A method for determining allowances which results in the creation of allowances that are quantifiable, surplus and legally enforceable;~~

~~(b) The manner in which allowances must be banked and traded, including, without limitation, the allocation of the allowances among affected units and the auctioning of those allowances; and~~

~~(c) The manner in which the Commission will record transactions occurring within the program.~~ The requirements and procedures for reporting emissions of greenhouse gases;

(b) Methods for identifying, measuring and otherwise determining the greenhouse gases that must be reported for inclusion in the registry;

(c) Methods for independently verifying the information reported for inclusion in the registry; and

(d) The reporting period, except that the period must not be longer than 1 year.

3. The Commission may establish procedures for the inclusion in the registry of greenhouse gases emitted from a source other than an affected unit.

Sec. 6. ~~[Notwithstanding any provision of law to the contrary, on and after January 1, 2011, the annual tonnage limitation for the aggregate quantity of emissions of greenhouse gases from all affected units in this State must not exceed:~~

~~1. For calendar years 2011, 2012, 2013 and 2014, the aggregate quantity of emissions of greenhouse gases emitted by those affected units for calendar year 2006, as determined by the Commission;~~

~~2. For calendar year 2015, the aggregate quantity of emissions of greenhouse gases emitted by those affected units for calendar year 2001, as determined by the Commission;~~

~~3. For calendar years 2016, 2017, 2018 and 2019, the aggregate quantity of emissions of greenhouse gases emitted by those affected units during the immediately preceding calendar year less 1 percent; and~~

~~4. For calendar year 2020 and each calendar year thereafter, the aggregate quantity of emissions of greenhouse gases emitted by those affected units during the immediately preceding calendar year less 1.5 percent.~~ (Deleted by amendment.)

Sec. 6.5. 1. The Department shall, not later than December 31, 2008, and at least every 4 years thereafter, issue a statewide inventory of greenhouse gas emissions.

2. The inventory must include, without limitation:

(a) The sources, types and amounts of the greenhouse gases emitted in this State;

(b) The Department's evaluation of the emissions; and

(c) Documentation for the information set forth in paragraphs (a) and (b).

Sec. 7. NRS 445B.105 is hereby amended to read as follows:

445B.105 As used in NRS 445B.100 to 445B.640, inclusive, ~~and sections 2 to ~~6.7~~ 6.5, inclusive, of this act~~, unless the context otherwise requires, the words and terms defined in NRS 445B.110 to 445B.155, inclusive, ~~and sections 2 ~~to 3~~ and 4 of this act~~ have the meanings ascribed to them in those sections.

Sec. 8. NRS 445B.210 is hereby amended to read as follows:

445B.210 The Commission may:

1. Subject to the provisions of NRS 445B.215, adopt regulations consistent with the general intent and purposes of NRS 445B.100 to 445B.640, inclusive, ~~and sections 2 to ~~6.7~~ 6.5, inclusive, of this act~~ to prevent, abate and control air pollution.

2. Establish standards for air quality.

3. Require access to records relating to emissions which cause or contribute to air pollution.

4. Cooperate with other governmental agencies, including other states and the Federal Government.

5. Establish such requirements for the control of emissions as may be necessary to prevent, abate or control air pollution.

6. By regulation:

(a) Designate as a hazardous air pollutant any substance which, on or after October 1, 1993, is on the federal list of hazardous air pollutants pursuant to 42 U.S.C. § 7412(b); and

(b) Delete from designation as a hazardous air pollutant any substance which, after October 1, 1993, is deleted from the federal list of hazardous air pollutants pursuant to 42 U.S.C. § 7412(b),

➡ based upon the Commission's determination of the extent to which such a substance presents a risk to the public health.

7. Hold hearings to carry out the provisions of NRS 445B.100 to 445B.640, inclusive, *and sections 2 to ~~6.7~~ 6.5, inclusive, of this act*, except as otherwise provided in those sections.

8. Establish fuel standards for both stationary and mobile sources of air contaminants. Fuel standards for mobile sources of air contaminants must be established to achieve air quality standards that protect the health of the residents of the State of Nevada.

9. Require elimination of devices or practices which cannot be reasonably allowed without generation of undue amounts of air contaminants.

Sec. 9. NRS 445B.220 is hereby amended to read as follows:

445B.220 In carrying out the purposes of NRS 445B.100 to 445B.640, inclusive, *and sections 2 to ~~6.7~~ 6.5, inclusive, of this act*, the Commission, in addition to any other action which may be necessary or appropriate to carry out ~~such~~ those purposes, may:

1. Cooperate with appropriate federal officers and agencies of the Federal Government, other states, interstate agencies, local governmental agencies and other interested parties in all matters relating to air pollution control in preventing or controlling the pollution of the air in any area.

2. Recommend measures for control of air pollution originating in this State.

Sec. 10. NRS 445B.230 is hereby amended to read as follows:

445B.230 The Department shall:

1. Make such determinations and issue such orders as may be necessary to implement the purposes of NRS 445B.100 to 445B.640, inclusive ~~[-]~~, *and sections 2 to ~~6.7~~ 6.5, inclusive, of this act*.

2. Apply for and receive grants or other funds or gifts from public or private agencies.

3. Cooperate and contract with other governmental agencies, including other states and the Federal Government.

4. Conduct investigations, research and technical studies consistent with the general purposes of NRS 445B.100 to 445B.640, inclusive ~~[-]~~, *and sections 2 to ~~6.7~~ 6.5, inclusive, of this act*.

5. Prohibit as specifically provided in NRS 445B.300 and 445B.320 and as generally provided in NRS 445B.100 to 445B.640, inclusive, *and sections 2 to ~~6.7~~ 6.5, inclusive, of this act* the installation, alteration or establishment of any equipment, device or other article capable of causing air pollution.

6. Require the submission of such preliminary plans and specifications and other information as it deems necessary to process permits.

7. Enter into and inspect at any reasonable time any premises containing an air contaminant source or a source under construction for purposes of ascertaining compliance with NRS 445B.100 to 445B.640, inclusive ~~[-]~~, *and sections 2 to ~~6.7~~ 6.5, inclusive, of this act*.

8. Specify the manner in which incinerators may be constructed and operated.

9. Institute proceedings to prevent continued violation of any order issued by the Director and to enforce the provisions of NRS 445B.100 to 445B.640, inclusive ~~[]~~, *and sections 2 to ~~6.1~~ 6.5, inclusive, of this act.*

10. Require access to records relating to emissions which cause or contribute to air pollution.

11. Take such action in accordance with the rules, regulations and orders promulgated by the Commission as may be necessary to prevent, abate and control air pollution.

Sec. 11. NRS 445B.500 is hereby amended to read as follows:

445B.500 1. Except as otherwise provided in this section and in NRS 445B.310 ~~and section 5 of this act.~~

(a) The district board of health, county board of health or board of county commissioners in each county whose population is 100,000 or more shall establish a program for the control of air pollution and administer the program within its jurisdiction unless superseded.

(b) The program:

(1) Must include, without limitation, standards for the control of emissions, emergency procedures and variance procedures established by ordinance or local regulation which are equivalent to or stricter than those established by statute or state regulation;

(2) May, in a county whose population is 400,000 or more, include requirements for the creation, receipt and exchange for consideration of credits to reduce and control air contaminants in accordance with NRS 445B.508; and

(3) Must provide for adequate administration, enforcement, financing and staff.

(c) ~~The *Except as otherwise provided in section 5 of this act, the*~~ district board of health, county board of health or board of county commissioners is designated as the air pollution control agency of the county for the purposes of NRS 445B.100 to 445B.640, inclusive, and *sections 2 to ~~6.1~~ 6.5, inclusive, of this act* ~~and ~~the~~~~ the Federal Act insofar as it pertains to local programs, and that agency is authorized to take all action necessary to secure for the county the benefits of the Federal Act.

(d) Powers and responsibilities provided for in NRS 445B.210, 445B.240 to 445B.470, inclusive, 445B.560, 445B.570, 445B.580 and 445B.640 are binding upon and inure to the benefit of local air pollution control authorities within their jurisdiction.

2. The local air pollution control board shall carry out all provisions of NRS 445B.215 with the exception that notices of public hearings must be given in any newspaper, qualified pursuant to the provisions of chapter 238 of NRS, once a week for 3 weeks. The notice must specify with particularity the reasons for the proposed regulations and provide other informative

details. NRS 445B.215 does not apply to the adoption of existing regulations upon transfer of authority as provided in NRS 445B.610.

3. ~~In *[Except as otherwise provided in section 5 of this act, in]* a county whose population is 400,000 or more, the local air pollution control board may delegate to an independent hearing officer or hearing board its authority to determine violations and levy administrative penalties for violations of the provisions of NRS 445B.100 to 445B.450, inclusive, and 445B.500 to 445B.640, inclusive, and sections 2 to ~~6.5~~ 6.5, inclusive, of this act or any regulation adopted pursuant to those sections. If such a delegation is made, 17.5 percent of any penalty collected must be deposited in the county treasury in an account to be administered by the local air pollution control board to a maximum of \$17,500 per year. The money in the account may only be used to defray the administrative expenses incurred by the local air pollution control board in enforcing the provisions of NRS 445B.100 to 445B.640, inclusive ~~[-]~~, and sections 2 to ~~6.5~~ 6.5, inclusive, of this act. The remainder of the penalty must be deposited in the county school district fund of the county where the violation occurred.~~

4. Any county whose population is less than 100,000 or any city may meet the requirements of this section for administration and enforcement through cooperative or interlocal agreement with one or more other counties, or through agreement with the State, or may establish its own program for the control of air pollution. If the county establishes such a program, it is subject to the approval of the Commission.

5. No district board of health, county board of health or board of county commissioners may adopt any regulation or establish a compliance schedule, variance order or other enforcement action relating to the control of emissions from plants which generate electricity by using steam produced by the burning of fossil fuel.

6. For the purposes of this section, "plants which generate electricity by using steam produced by the burning of fossil fuel" means plants that burn fossil fuels in a boiler to produce steam for the production of electricity. The term does not include any plant which uses technology for a simple or combined cycle combustion turbine, regardless of whether the plant includes duct burners.

Sec. 12. ~~[NRS 445B.508 is hereby amended to read as follows:~~

~~445B.508 1. *[In]* Except as otherwise provided in section 5 of this act, in a county whose population is 400,000 or more, a district board of health or board of county commissioners may, as a part of its program for the control of air pollution established pursuant to NRS 445B.500, require each person or entity that is proposing to locate a new source of air pollution within its jurisdiction or to modify an existing source of air pollution within its jurisdiction in such a way as to increase emissions of air pollutants, to reduce or mitigate any increase in emissions in accordance with regulations adopted by such board.~~

~~2. If a district board of health or board of county commissioners imposes the requirement described in subsection 1, its program established pursuant to NRS 445B.500 must:~~

~~(a) Provide a method for determining credits which results in credits that are quantifiable, surplus and legally enforceable;~~

~~(b) Set forth the manner in which credits will be banked and traded, and the manner in which such transactions will be tracked and accounted for by the board; and~~

~~(c) By not later than January 1, 2002, prohibit any person or entity from purchasing or selling credits of one type of pollutant if such credits will be used subsequently to produce a different type of pollutant.~~

~~3. If a county operates a program for the control of air pollution that allows a person operating or responsible for the existence of a source to earn credits for maintaining or reducing the level of air contaminant emitted from the source, the program:~~

~~(a) Must allow the person to earn credits for reducing the level of air contaminant emitted from that source through the use of solar energy; and~~

~~(b) Must not allow the person to earn credits for reducing the level of air contaminant emitted from that source if such a reduction is required as a component of a penalty imposed against the person.~~

~~4. A credit earned pursuant to this section does not constitute an interest in property.~~

~~5. As used in this section:~~

~~(a) "Credit" means an administratively created asset that may:~~

~~(1) Entitle a person operating or responsible for the existence of a source to allow the source to emit a certain level of air contaminant above a baseline that is determined by the board;~~

~~(2) Be used to comply with the requirements of a permit; and~~

~~(3) Be traded or sold to another person.~~

~~(b) "Surplus" means that a credit is not earned by compliance with a requirement of the state implementation plan adopted by this State pursuant to 42 U.S.C. § 7410 or any other federal, state or local law, ordinance or regulation. (Deleted by amendment.)~~

Sec. 13. NRS 445B.540 is hereby amended to read as follows:

445B.540 1. A county or area whose local jurisdiction over air pollution control has been superseded may establish or restore a local air pollution control program if such program is approved as adequate by the Commission.

2. A district, county or city which has an air pollution control program in operation on July 1, 1971, may continue its program if within 1 year after July 1, 1971, the program is approved as adequate by the Commission. Such approval shall be deemed granted unless the Commission specifically disapproves the program after a public hearing. Nothing in NRS 445B.100 to 445B.640, inclusive, and sections 2 to ~~6~~ 6.5, inclusive, of this act is to be construed as invalidating any rule, regulation, enforcement action, variance,

permit, cease and desist order, compliance schedule, or any other legal action taken by any existing air pollution control authority pursuant to former NRS 445.400 to 445.595, inclusive, on or before July 1, 1971, unless it is specifically repealed, superseded or disapproved, pursuant to NRS 445B.215.

Sec. 14. NRS 445B.590 is hereby amended to read as follows:

445B.590 1. The Account for the Management of Air Quality is hereby created in the State General Fund, to be administered by the Department.

2. Money in the Account for the Management of Air Quality must be expended only:

(a) To carry out and enforce the provisions of NRS 445B.100 to 445B.640, inclusive, and ~~sections 2 to 6.5, inclusive, of this act and of~~ any regulations adopted pursuant to those sections, including, without limitation, the direct and indirect costs of:

(1) Preparing regulations and recommendations for legislation regarding those provisions;

(2) Furnishing guidance for compliance with those provisions;

(3) Reviewing and acting upon applications for operating permits;

(4) Administering and enforcing the terms and conditions of operating permits;

(5) Monitoring emissions and the quality of the ambient air;

(6) Preparing inventories and tracking emissions;

(7) Performing modeling, analyses and demonstrations; and

(8) Establishing and administering a program for the provision of assistance, pursuant to 42 U.S.C. § 7661f, to small businesses operating stationary sources; and

(b) In any other manner required as a condition to the receipt of federal money for the purposes of NRS 445B.100 to 445B.640, inclusive ~~[-]~~, and ~~sections 2 to 6.5, inclusive, of this act.~~

3. All interest earned on the money in the Account for the Management of Air Quality must be credited to the Account. Claims against the Account for the Management of Air Quality must be paid as other claims against the State are paid.

Sec. 15. NRS 445B.600 is hereby amended to read as follows:

445B.600 NRS 445B.100 to 445B.595, inclusive, and ~~sections 2 to 6.5, inclusive, of this act~~ does not abridge, limit, impair, create, enlarge or otherwise affect substantively or procedurally the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceeding therefor in the courts of this State or the courts of the United States on a tort claim against the United States or a federal agency as authorized by federal statutes.

Sec. 16. NRS 445B.610 is hereby amended to read as follows:

445B.610 1. All rules, regulations and standards promulgated by the State Commission of Environmental Protection pertaining to air pollution control in force on July 1, 1973, ~~[shall]~~ remain in effect until such time as

revised by the State Environmental Commission pursuant to NRS 445B.100 to 445B.640, inclusive ~~[, and sections 2 to ~~6~~ 6.5, inclusive, of this act.~~

2. Any and all action taken by the State Commission of Environmental Protection, including but not limited to existing orders, notices of violation, variances, permits, cease and desist orders and compliance schedules, shall remain in full force and effect and binding upon the State Environmental Commission, the Director, the Department and all persons to whom such action may apply on or after July 1, 1973.

3. In the event that a local air pollution control program described in NRS 445B.500 is transferred in whole or in part from an existing air pollution control agency to another agency, all rules and regulations adopted by the existing agency may be readopted as amended to reflect the transfer of authorities by the new agency immediately upon such transfer, and the provisions of NRS 445B.215 ~~[shall]~~ do not apply to such readoption.

4. If a transfer of local authority as described in subsection 3 occurs, all orders, notices of violation, variances, cease and desist orders, compliance schedules and other legal action taken by the existing air pollution control board, control officer ~~[,]~~ or hearing board ~~[shall]~~ remain in full force and effect, and ~~[shall]~~ must not be invalidated by reason of such transfer.

Sec. 17. NRS 445B.640 is hereby amended to read as follows:

445B.640 1. Except as otherwise provided in subsection 4 and NRS 445C.010 to 445C.120, inclusive, any person who violates any provision of NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, *and sections 2 to ~~6~~ 6.5, inclusive, of this act*, or any regulation in force pursuant thereto, other than NRS 445B.570 on confidential information, is guilty of a civil offense and shall pay an administrative fine levied by the Commission of not more than \$10,000 per day per offense. Each day of violation constitutes a separate offense.

2. The Commission shall by regulation establish a schedule of administrative fines not exceeding \$500 for lesser violations of any provision of NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, *and sections 2 to ~~6~~ 6.5, inclusive, of this act*, or any regulation in force pursuant thereto.

3. Action pursuant to subsection 1 or 2 is not a bar to enforcement of the provisions of NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, *and sections 2 to ~~6~~ 6.5, inclusive, of this act*, regulations in force pursuant thereto, and orders made pursuant to NRS 445B.100 to 445B.450, inclusive, and 445B.470 to 445B.640, inclusive, *and sections 2 to ~~6~~ 6.5, inclusive, of this act* by injunction or other appropriate remedy, and the Commission or the Director may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

4. Any person who fails to pay a fine levied pursuant to subsection 1 or 2 within 30 days after the fine is imposed is guilty of a misdemeanor. The

provisions of this subsection do not apply to persons found by the court to be indigent.

5. All administrative fines collected by the Commission pursuant to this section must be deposited in the county school district fund of the county where the violation occurred.

Sec. 18. NRS 445C.030 is hereby amended to read as follows:

445C.030 "Environmental requirement" means a requirement contained in NRS 444.440 to 444.645, inclusive, 445A.300 to 445A.730, inclusive, 445B.100 to 445B.640, inclusive, *and sections 2 to ~~6.7~~ 6.5, inclusive, of this act*, 459.400 to 459.600, inclusive, 459.700 to 459.856, inclusive, or 519A.010 to 519A.280, inclusive, or in a regulation adopted pursuant to any of those ~~statutes~~ *sections*.

Sec. 19. NRS 459.460 is hereby amended to read as follows:

459.460 1. NRS 459.400 to 459.600, inclusive, do not apply to any activity or substance which is subject to control pursuant to NRS 445A.300 to 445A.955, inclusive, and 459.010 to 459.290, inclusive, except to the extent that they can be applied in a manner which is not inconsistent with those sections.

2. The Director shall administer NRS 459.400 to 459.600, inclusive, in a manner which avoids duplication of the provisions of NRS 445A.300 to 445A.955, inclusive, and 445B.100 to 445B.640, inclusive, *and sections 2 to ~~6.7~~ 6.5, inclusive, of this act*, and the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 et seq.

Sec. 20. NRS 459.930 is hereby amended to read as follows:

459.930 1. Notwithstanding any other provision of law to the contrary and regardless of whether he is a participant in a program, a person who:

(a) Is a bona fide prospective purchaser is not liable for any response action or cleanup that may be required with respect to any real property pursuant to NRS 445A.300 to 445A.730, inclusive, 445B.100 to 445B.640, inclusive, *and sections 2 to ~~6.7~~ 6.5, inclusive, of this act*, 459.400 to 459.600, inclusive, or any other applicable provision of law.

(b) Is an innocent purchaser is not liable for any response action or cleanup that may be required with respect to any real property pursuant to NRS 445A.300 to 445A.730, inclusive, 445B.100 to 445B.640, inclusive, *and sections 2 to ~~6.7~~ 6.5, inclusive, of this act*, 459.400 to 459.600, inclusive, or any other applicable provision of law.

(c) Owns real property that:

(1) Is contiguous to or otherwise similarly situated with respect to; and

(2) Is or may be contaminated by a release or threatened release of a hazardous substance from,

➤ other real property that the person does not own, is not liable for any response action or cleanup that may be required with respect to the release or threatened release, provided that the person meets the requirements set forth in section 107(q)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9607(q)(1).

2. A person described in paragraph (a), (b) or (c) of subsection 1 shall report to the Division, in a manner prescribed by the Commission:

(a) Any of the following substances that are found on or at real property owned by the person:

(1) Hazardous substances at or above the required reporting levels designated pursuant to sections 102 and 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9602 and 9603; and

(2) Petroleum products of such type and in such amount as are required by the Division to be reported; and

(b) Any response action or cleanup that has been performed with respect to the real property described in paragraph (a).

3. The provisions of this section do not otherwise limit the authority of the Administrator, the Commission or the Division to require any person who is responsible for the contamination or pollution of real property, by improperly managing hazardous substances at or on that real property, to perform a response action or cleanup with respect to that real property.

4. If there are costs relating to a response action or cleanup that are incurred and unrecovered by the State of Nevada with respect to real property for which a bona fide prospective purchaser of the real property is not liable pursuant to the provisions of this section, the State of Nevada:

(a) Has a lien against that real property in an amount not to exceed the increase in the fair market value of the real property that is attributable to the response action or cleanup, which increase in fair market value must be measured at the time of the sale or other disposition of the real property; or

(b) May, with respect to those incurred and unrecovered costs and by agreement with the bona fide prospective purchaser of the real property, obtain from that bona fide prospective purchaser:

(1) A lien on any other real property owned by the bona fide prospective purchaser; or

(2) Another form of assurance or payment that is satisfactory to the Administrator.

5. The provisions of this section:

(a) Do not affect the liability in tort of any party; and

(b) Apply only to real property that is acquired on or after the date that is 60 days after May 26, 2003.

6. As used in this section:

(a) "Administrator" means the Administrator of the Division.

(b) "Bona fide prospective purchaser" has the meaning ascribed to it in section 101(40) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601(40).

(c) "Commission" means the State Environmental Commission.

(d) "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(e) "Hazardous substance" has the meaning ascribed to it in NRS 459.620.

(f) "Innocent purchaser" means a person who qualifies for the exemption from liability set forth in section 107(b)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9607(b)(3).

(g) "Participant" has the meaning ascribed to it in NRS 459.622.

(h) "Program" means a program of voluntary cleanup and relief from liability set forth in NRS 459.610 to 459.658, inclusive.

(i) "Response action" means any action to mitigate, attempt to mitigate or assist in the mitigation of the effects of a leak or spill of or an accident involving a hazardous substance, including, without limitation, any action to:

(1) Contain and dispose of the hazardous substance;

(2) Clean and decontaminate the area affected by the leak, spill or accident; or

(3) Investigate the occurrence of the leak, spill or accident.

Senator Titus moved the adoption of the amendment.

Remarks by Senator Titus.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Townsend moved to withdraw Amendment No. 394 to Senate Bill No. 432.

Remarks by Senator Townsend.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 432.

Bill read second time.

The following amendment was proposed by Senator Washington:

Amendment No. 613.

"SUMMARY—~~[Enacts provisions governing]~~ *Directs the Legislative Committee on Health Care to appoint a subcommittee to conduct a review concerning complementary integrative medicine ~~[and]~~, homeopathic medicine and the Nevada Institutional Review Board.* (BDR ~~[54]~~ S-694)"

"AN ACT relating to health; ~~[creating the Board of Complementary Integrative Medical Examiners; setting forth the powers and duties of the Board; providing for the membership of the Board; setting forth the requirements for the issuance of a license as a complementary integrative medical physician and the issuance of a certificate as an advanced practitioner of complementary integrative medicine, complementary integrative medical assistant and complementary integrative medical nutritionist; abolishing the Board of Homeopathic Medical Examiners; transferring its powers and duties to the Board of Complementary Integrative Medical Examiners; repealing and revising other provisions governing homeopathy; imposing certain requirements upon a provider of insurance; providing a penalty;]~~ *directing the Legislative Committee on Health Care to*

appoint a subcommittee to conduct a review concerning complementary integrative medicine, homeopathic medicine and the Nevada Institutional Review Board; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Under existing law, a person may not engage in activity as a homeopathic physician, advanced practitioner of homeopathy or homeopathic assistant unless the person is licensed or certified by the Board of Homeopathic Medical Examiners. (Chapter 630A of NRS) The term "homeopathy" generally means to treat a patient using certain substances of animal, vegetable, chemical or mineral origin in accordance with the principle that a substance which produces symptoms in a healthy person may eliminate those symptoms in an ill person. (NRS 630A.040) The Board has numerous duties and powers relating to the practice of homeopathy, including, without limitation, the authority to adopt regulations and to commence disciplinary proceedings against persons who are licensed or certified by the Board. (NRS 630A.200, 630A.480-630A.555)~~

~~Section 127 of this bill repeals the existing provisions of NRS governing the practice of homeopathy. Sections 3-84 of this bill enact entirely new provisions governing the practice of complementary integrative medicine and create a new board designated the Board of Complementary Integrative Medical Examiners. The new Board has generally the same powers and duties of the abolished Board of Homeopathic Medical Examiners.~~

~~Section 34 of this bill provides that a homeopathic physician who is licensed under the Board of Homeopathic Medical Examiners may continue to practice using his current license to practice homeopathic medicine. However, section 34 also gives the homeopathic physician the option to apply to the Board of Complementary Integrative Medical Examiners for the issuance of a license as a complementary integrative medical physician without any further requirements.~~

~~Sections 35 and 41-46 of this bill authorize a person to become licensed or certified by the Board of Complementary Integrative Medical Examiners to be a complementary integrative medical physician, an advanced practitioner of complementary integrative medicine, a complementary integrative medical assistant or a complementary integrative medical nutritionist. Section 52 of this bill authorizes the Board to issue certain temporary, emeritus, special and restricted licenses to engage in practice as a complementary integrative medical physician. Section 55 of this bill sets forth the fees for the issuance or renewal of a license or certificate that is issued or renewed by the Board. Section 84 of this bill provides for the imposition of a felony against a person who practices complementary integrative medicine or homeopathic medicine without a license or provides services as an advanced practitioner of complementary integrative medicine, a complementary integrative medical assistant or a complementary integrative medical nutritionist without a certificate issued by the Board.~~

~~Sections 118 and 119 of this bill add new provisions to Nevada's Insurance Code, including provisions requiring a provider of insurance to use ABC coding in its business transactions with providers of health care. (Title 57 of NRS.)~~

Existing law governs the practice of homeopathic medicine and the operation of the Nevada Institutional Review Board. (Chapter 630A of NRS) The Legislative Committee on Health Care is a permanent statutory committee of Legislators that meets during the interim between legislative sessions to study various issues relating to health care. (NRS 439B.200-439B.240) This bill requires the Committee to appoint a subcommittee to review issues relating to complementary integrative medicine, homeopathic medicine and the Nevada Institutional Review Board.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Delete existing sections 1 through 133 of this bill and replace with the following new sections 1 and 2:

Section 1. 1. The Legislative Committee on Health Care shall appoint a subcommittee to review issues concerning complementary integrative medicine, homeopathic medicine and the Nevada Institutional Review Board. The subcommittee must consist of:

(a) One member of the Legislative Committee on Health Care who is a member of the Senate appointed by the Chairman of that Committee;

(b) Two members of the Legislative Committee on Health Care who are members of the Assembly appointed by the Chairman of that Committee;

(c) Two members of the Senate Standing Committee on Commerce and Labor who served during the 74th Session of the Nevada Legislature appointed by the Chairman of that Committee; and

(d) One member of the Assembly Standing Committee on Commerce and Labor who served during the 74th Session of the Nevada Legislature appointed by the Chairman of that Committee.

2. The Chairman of the Legislative Committee on Health Care shall designate a member of the subcommittee to serve as chairman of the subcommittee.

3. The review must include, without limitation:

(a) A review of the status and operation of the Board of Homeopathic Medical Examiners and the Nevada Institutional Review Board;

(b) An examination of the advisability of making the Nevada Institutional Review Board an independent body;

(c) An examination of the practice of complementary integrative medicine, including:

(1) The scope of the practice;

(2) Any laws governing the practice; and

(3) The importance, benefits and value of the practice to this State and the residents of and visitors to this State; and

(d) An examination of the potential for and advisability of an independent board and statutory structure to govern the practice of complementary integrative medicine.

4. Not later than June 30, 2008, the subcommittee shall submit a report of the results of its review and any recommendations for legislation to the Legislative Committee on Health Care. The Legislative Committee on Health Care shall submit the report of the results of the review and any recommendations for legislation to the 75th Session of the Nevada Legislature.

Sec. 2. This act becomes effective on July 1, 2007.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 436.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 402.

"SUMMARY—Makes various changes to the provisions governing common-interest communities. (BDR 10-234)"

"AN ACT relating to common-interest communities; revising various provisions governing the imposition and payment of certain fines and assessments; revising various provisions governing the election of members of the executive board; providing that certain unapproved books, records and other papers are not required to be made available to a unit's owner; ~~until adoption or approval~~ revising the provisions governing the regulation of certain streets in certain common-interest communities; making various other changes ~~[related]~~ relating to common-interest communities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by the State or local governments for public use. (NRS 116.350) Section 1.4 of this bill prohibits a common-interest community from restricting the operation of motorcycles. Section 1.6 of this bill prohibits a common-interest community from using information from radar guns as the basis for a fine or penalty.

Existing law provides that a covenant, restriction or condition in a deed, contract or other legal instrument cannot unreasonably restrict the use of a system for obtaining solar or wind energy. (NRS 111.239, 278.0208) Sections 1 and 21.5 of this bill specify how to determine if a restriction significantly decreases the efficiency or performance of such a system and places the burden on the property owner to show such a decrease.

Section ~~11~~ 1.8 of this bill adds community managers of common-interest communities as persons whose health, safety and welfare may be threatened by violations of a unit-owners' association's governing documents, authorizing the imposition of fines. (NRS 116.31031) This section also provides that a unit's owner must receive notice of a violation and possible fine, that a member of the executive board cannot participate in hearings on fines if he has not paid his assessments and that the association must provide written confirmation when a fine is paid.

Section 2 of this bill establishes priorities for the application of a unit owner's payments against assessments and fines, unless the unit's owner has stated in writing that no portion of the payment is to be applied against fines or costs related thereto. (NRS 116.310315)

Section 3 of this bill authorizes candidates for the executive board to be elected without balloting when the number of candidates is less than or equal to the number of members to be elected. (NRS 116.31034) Section 3 also adds items which candidates must disclose to units' owners in advance of the election, whether or not an election is to be held with balloting. (NRS 116.31034)

Section 4 of this bill ~~eliminates the requirement~~ requires that a declarant deliver to an association an ~~accounting~~ ancillary audit of the association's money and audited financial statements ~~unless requested by the association at the time of transfer~~ from the date of the last audit until the date the declarant's control ends. (NRS 116.31038) Section 4 also requires the declarant to pay for the costs of the ancillary audit. ~~if the association requests an audit.~~ (NRS 116.31038)

Sections 4, 8, 12-14 and 16-21 of this bill eliminate the issuance of permits to reserve study specialists and instead provide for their registration. (NRS 116.31038, 116.750, 116A.120, 116A.260 and 116A.420-116A.900)

Section 6 of this bill lengthens the period between which meetings of the executive board must be held from every 90 days to every quarter, but not less than every 100 days. (NRS 116.31083) Section 6 also provides that if the sole purpose of a meeting is for the executive board to meet in executive session, ~~under certain circumstances, notice must be provided in the same manner as in an emergency.~~ need not be provided. (NRS 116.31083)

Section 7 of this bill permits the executive board to impose certain assessments for the purpose of funding a reserve without a vote of the units' owners. ~~under certain circumstances.~~ (NRS 116.3115)

Section 8 of this bill establishes the criteria for evaluating the adequacy of the reserves of an association. (NRS 116.31152)

Section 9 of this bill excludes the books, records and other papers ~~not adopted or approved at a regular meeting of~~ of the association which are in the process of being developed and have not yet been placed on an agenda for final approval by the executive board from the material which the board must make available upon the written request of a unit's owner. (NRS 116.31175)

Existing law provides that certain common-interest communities are prohibited from regulating motor vehicles on thoroughfares accepted by State or local governments for public use. (NRS 116.350) Section 10 of this bill permits an association to restrict parking on such thoroughfares if the parking prohibition was a condition for approval of the subdivision's final map or included in the terms of a zoning ordinance permit or approval. (NRS 116.350) Section 10 also adds inoperable vehicles to the types of vehicles that an association may restrict the parking or storage of. (NRS 116.350) Finally, section 10 prohibits a common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles.

Section 11 of this bill deems deposits made in connection with the purchase or reservation of units from a person required to deliver a public offering statement placed in out-of-state escrow companies as being deposited in this State if the escrow holder has a legal right to conduct business in the State, has a resident agent in this State and has consented to the jurisdiction of the courts of this State. (NRS 116.411)

Section 15 of this bill provides for the issuance of temporary certificates for community managers for a ~~probationary~~ period of 1 year under certain circumstances. (NRS 116A.410)

Section 22 of this bill excludes certain unit owners' associations from the definition of "business" for the purposes of requiring business licenses. (NRS 360.765)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 111.239 is hereby amended to read as follows:

111.239 1. Any 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 ~~it is "unreasonable"~~:

(a) "Significantly decreases the efficiency or performance of the system" means a decrease of 20 percent or more in the efficiency or performance of the system.

(b) "Unreasonably" restricts the use of a system for obtaining solar or wind energy" means placing a restriction or requirement on the use of such a system which significantly decreases the efficiency or performance of the system and does not allow for the use of an alternative system at a comparable cost and with comparable efficiency and performance.

Sec. 1.2. Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.4 and 1.6 of this act.

Sec. 1.4. 1. The executive board of a common-interest community shall not, and the governing documents of a common-interest community must not, restrict, prohibit or otherwise impede the operation of a motorcycle if the motorcycle is operated on any road, street, alley or other surface intended for use by a motor vehicle.

2. The provisions of this section do not preclude the governing documents of a common-interest community from reasonably restricting the parking or storage of a motorcycle to the extent authorized by law.

3. As used in this section, "motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground which is required to be registered pursuant to chapter 482 of NRS.

Sec. 1.6. 1. A member of the executive board of a common-interest community, a community manager for the common-interest community and any other representative of the association shall not use a radar gun or other device designed to gauge the speed of a vehicle for the purpose of imposing any fine or other penalty upon or taking any other action against a unit's owner or other person.

2. The executive board of a common-interest community shall not impose any fine or other penalty upon or take any other action against a unit's owner or other person based on the results of any test conducted using a radar gun or other device designed to gauge the speed of a vehicle.

3. The governing documents of a common-interest community must not authorize the executive board or any other person to impose any fine or other penalty upon or take any other action against a unit's owner or other person based on the results of any test conducted using a radar gun or other device designed to gauge the speed of a vehicle.

~~[Section 1.]~~ Sec. 1.8. NRS 116.31031 is hereby amended to read as follows:

116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or guest of a unit's owner violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:

(a) Prohibit, for a reasonable time, the unit's owner or the tenant or guest of the unit's owner from:

(1) Voting on matters related to the common-interest community.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or guest of the unit's owner from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) Impose a fine against the unit's owner or the tenant or guest of the unit's owner for each violation, except that a fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305. If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners, ~~or~~ residents or community manager of the common-interest community,

the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners, ~~for~~ residents *or community manager* of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed \$100 for each violation or a total amount of \$1000, whichever is less. The limitations on the amount of the fine do not apply to any interest, charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

2. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, the unit's owner and, if different, the person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and

(b) Within a reasonable time after the discovery of the violation, the unit's owner and, if different, the person against whom the fine will be imposed has been provided with:

(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and

(2) A reasonable opportunity to contest the violation at the hearing.

↪ For the purposes of this subsection, a unit's owner shall not be deemed to have received written notice unless written notice is delivered to the address of the unit and, if different, to a mailing address specified by the unit's owner.

3. The executive board must schedule the date, time and location for the hearing on the violation so that the unit's owner and, if different, the person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

4. The executive board must hold a hearing before it may impose the fine, unless the fine is paid before the hearing or unless the unit's owner and, if different, the person against whom the fine will be imposed:

(a) ~~Pays the fine;~~

~~(b)~~ Executes a written waiver of the right to the hearing; or

~~((c))~~ (b) Fails to appear at the hearing after being provided with proper notice of the hearing.

5. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.

6. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

7. A member of the executive board shall not participate in any hearing or cast any vote relating to a fine imposed pursuant to subsection 1 if the member has not paid all assessments which are due to the association by the member. If a member of the executive board:

(a) Participates in a hearing in violation of this subsection, any action taken at the hearing is void.

(b) Casts a vote in violation of this subsection, the vote is void.

8. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

~~8.1~~ 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.

~~9.1~~ 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. 2. NRS 116.310315 is hereby amended to read as follows:

116.310315 If an association has imposed a fine against a unit's owner or a tenant or guest of a unit's owner pursuant to NRS 116.31031 for violations of the governing documents of the association, the association ~~[-] shall:~~

1. ~~{Shall, in}~~ In the books and records of the association, account for the fine separately from any assessment, fee or other charge; and

2. ~~{Shall not apply, in whole or in part, any payment made by the unit's owner for any assessment, fee or other charge toward the payment of the outstanding balance of the fine or any costs of collecting the fine, unless the unit's owner provides written authorization which directs the association to apply the payment made by the unit's owner in such a manner.}~~ Apply any payment received from a unit's owner without written instructions as to the application of the payment:

(a) First to current or past due assessments; and

(b) Then the remainder of any payment to past due fines, including the costs of collecting any such fine, unless the unit's owner has stated in writing that no amount of the payment is to be applied toward the fines or toward the costs of collecting the fines.

Sec. 3. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed 2 years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in

the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association. *Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his eligibility to serve as a member of the executive board pursuant to this subsection, the executive board may determine that if, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election, then:*

(a) The association will not prepare or mail any ballots to units' owners pursuant to this section;

(b) The candidates so nominated shall be deemed to be duly elected to the executive board not later than 30 days after the date of closing of the prescribed period for nominations; and

(c) Units' owners will receive notification that the candidates so nominated have been elected to the executive board.

5. Each person ~~[whose name is placed on the ballot]~~ who is nominated as a candidate for a member of the executive board pursuant to subsection 4 must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate ~~has~~:

(1) Has any unpaid and past due assessments or construction penalties that are required to be paid to the association ~~[-]~~;

(2) Has any unpaid fine imposed by the executive board that is 30 days or more past due; or

(3) After being provided notice and the opportunity for a hearing in accordance with the provisions of NRS 116.31031, has been found to have committed a violation of the governing documents that has not been cured.

➡ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot *or, in the event ballots are not prepared and mailed pursuant to subsection 4, in the manner established for distribution of ballots in the bylaws of the association.*

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

8. ~~{The}~~ *Except as otherwise provided in subsection 4, the election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:*

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 4. NRS 116.31038 is hereby amended to read as follows:

116.31038 In addition to any applicable requirement set forth in NRS 116.310395, within 30 days after units' owners other than the declarant may elect a majority of the members of the executive board, the declarant shall deliver to the association all property of the units' owners and of the association held by or controlled by him, including:

1. The original or a certified copy of the recorded declaration as amended, the articles of incorporation, articles of association, articles of organization, certificate of registration, certificate of limited partnership, certificate of trust or other documents of organization for the association, the bylaws, minute books and other books and records of the association and any rules or regulations which may have been adopted.

2. ~~An~~ ~~If requested by the association at the time the control of the declarant ends, and~~ accounting for money of the association and audited financial statements for each fiscal year and any ancillary period from the date of ~~inception~~ the last audit of the association to the date the period of the declarant's control ends. The financial statements must fairly and accurately report the association's financial position. *The declarant shall pay the costs of the ancillary audit. The ancillary audit must be delivered within 210 days after the date the period of the declarant's control ends.*

3. A complete study of the reserves of the association, conducted by a person who ~~holds a permit to conduct such a study issued~~ *is registered as a reserve study specialist* pursuant to chapter 116A of NRS. At the time the control of the declarant ends, he shall:

(a) Except as otherwise provided in this paragraph, deliver to the association a reserve account that contains the declarant's share of the amounts then due, and control of the account. If the declaration was recorded before October 1, 1999, and, at the time the control of the declarant ends, he has failed to pay his share of the amounts due, the executive board shall authorize the declarant to pay the deficiency in installments for a period of

3 years, unless the declarant and the executive board agree to a shorter period.

(b) Disclose, in writing, the amount by which he has subsidized the association's dues on a per unit or per lot basis.

4. The association's money or control thereof.

5. All of the declarant's tangible personal property that has been represented by the declarant as property of the association or, unless the declarant has disclosed in the public offering statement that all such personal property used in the common-interest community will remain the declarant's property, all of the declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the common elements, and inventories of these properties.

6. A copy of any plans and specifications used in the construction of the improvements in the common-interest community which were completed within 2 years before the declaration was recorded.

7. All insurance policies then in force, in which the units' owners, the association, or its directors and officers are named as insured persons.

8. Copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the common-interest community other than units in a planned community.

9. Any renewable permits and approvals issued by governmental bodies applicable to the common-interest community which are in force and any other permits and approvals so issued and applicable which are required by law to be kept on the premises of the community.

10. Written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective.

11. A roster of owners and mortgagees of units and their addresses and telephone numbers, if known, as shown on the declarant's records.

12. Contracts of employment in which the association is a contracting party.

13. Any contract for service in which the association is a contracting party or in which the association or the units' owners have any obligation to pay a fee to the persons performing the services.

Sec. 5. NRS 116.310395 is hereby amended to read as follows:

116.310395 1. At the time of each close of escrow of a unit in a converted building, the declarant shall deliver to the association the amount of the converted building reserve deficit allocated to that unit.

2. The allocation to a unit of the amount of any converted building reserve deficit must be made in the same manner as assessments are allocated to that unit.

3. As used in this section, "converted building reserve deficit" means the amount necessary to replace the major components of the common elements needing replacement within 10 years after the date of the first ~~sale~~ close of escrow of a unit.

Sec. 6. NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board must be held at least once every ~~[90]~~ quarter, and not less than once every 100 days.

2. Except ~~[in an emergency]~~ as otherwise provided in subsection 3 or 4 or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

(a) Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;

(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or

(c) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. ~~[In]~~ Except as otherwise provided in subsection 4, in an emergency ~~for if the sole purpose of the meeting is for the executive board to meet in executive session,~~ 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. 7. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive:

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements are necessary. *Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common-interest community ~~if~~ 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. 8. NRS 116.31152 is hereby amended to read as follows:

116.31152 1. The executive board shall:

(a) At least once every 5 years, cause to be conducted a study of the reserves required to repair, replace and restore the major components of the common elements. ~~{;}~~

(b) At least annually, review the results of that study to determine whether those reserves are sufficient. ~~{; and}~~ *The reserves shall be deemed adequately funded if:*

(1) The amount of the reserves is equal to or greater than the amount specified in the funding plan; or

(2) The amount of reserves available for the next 5 years is sufficient to repair, replace and restore the major components of the common elements designated in the funding plan.

(c) At least annually, make any adjustments to the association's funding plan which the executive board deems necessary to provide adequate funding for the required reserves.

2. The study of the reserves required by subsection 1 must be conducted by a person who ~~holds a permit issued~~ *is registered as a reserve study specialist* pursuant to chapter 116A of NRS.

3. The study of the reserves must include, without limitation:

(a) A summary of an inspection of the major components of the common elements that the association is obligated to repair, replace or restore;

(b) An identification of the major components of the common elements that the association is obligated to repair, replace or restore which have a remaining useful life of less than 30 years;

(c) An estimate of the remaining useful life of each major component of the common elements identified pursuant to paragraph (b);

(d) An estimate of the cost of repair, replacement or restoration of each major component of the common elements identified pursuant to paragraph (b) during and at the end of its useful life; and

(e) An estimate of the total annual assessment that may be necessary to cover the cost of repairing, replacement or restoration of the major components of the common elements identified pursuant to paragraph (b), after subtracting the reserves of the association as of the date of the study, and an estimate of the funding plan that may be necessary to provide adequate funding for the required reserves.

4. A summary of the study of the reserves required by subsection 1 must be submitted to the Division not later than 45 days after the date that the executive board adopts the results of the study.

5. If a common-interest community was developed as part of a planned unit development pursuant to chapter 278A of NRS and is subject to an agreement with a city or county to receive credit against the amount of the residential construction tax that is imposed pursuant to NRS 278.4983 and 278.4985, the association that is organized for the common-interest community may use the money from that credit for the repair, replacement or restoration of park facilities and related improvements if:

(a) The park facilities and related improvements are identified as major components of the common elements of the association; and

(b) The association is obligated to repair, replace or restore the park facilities and related improvements in accordance with the study of the reserves required by subsection 1.

Sec. 9. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review during the regular working hours of the association, including, without limitation, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;

(b) The records of the association relating to another unit's owner, except for those records described in subsection 2; ~~and~~

(c) A contract between the association and an attorney ~~[-]~~; and

~~(d) The books, records and other papers of the association before adoption or approval by the executive board at a regular meeting.~~ 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.

Sec. 10. NRS 116.350 is hereby amended to read as follows:

116.350 1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not provide for the regulation of ~~motor vehicles 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.

2. ~~[The]~~ *Except as otherwise provided in subsection 3, the provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict [the] :*

(a) Parking on any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use if the requirement that no parking be allowed is included in the terms of any applicable zoning ordinance, permit or approval or as a condition for approval of any final subdivision map; or

(b) The parking or storage of inoperable vehicles, recreational vehicles, watercraft, trailers or commercial vehicles in the common-interest community to the extent authorized by law.

3. In a common-interest community, the executive board shall not and the governing documents must not prohibit a person from:

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for public utility services; or

(b) Parking a law enforcement vehicle or emergency services vehicle on a driveway, road, street, alley or other thoroughfare:

(1) While the person is engaged in his official duties; or

(2) If the person is:

(I) A unit's owner;

(II) Parking the vehicle within 50 yards of his unit; and

(III) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services.

4. As used in this section:

(a) "Commercial motor vehicle" has the meaning ascribed to it in 49 C.F.R. § 350.105.

(b) "Emergency services vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

(c) "Law enforcement vehicle" means a vehicle:

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

(d) "Utility service vehicle" means any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service.

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the commercial motor vehicle is owned, leased or rented by the utility.

Sec. 11. NRS 116.411 is hereby amended to read as follows:

116.411 1. Except as otherwise provided in subsections 2 ~~[and 3,]~~ , 3 and 4, a deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 must be placed in escrow and held either in this State or in the state where the unit is located in an account designated solely for that purpose by a licensed title insurance company, an independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality until:

(a) Delivered to the declarant at closing;

(b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit;

(c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released:

(1) Must not exceed the lesser of the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for the purpose; and

(2) Must be credited upon the purchase price; or

(d) Refunded to the purchaser.

2. A deposit or advance payment made for an additional item, improvement, optional item or alteration may be deposited in escrow or delivered directly to the declarant, as the parties may contract.

3. In lieu of placing a deposit in escrow pursuant to subsection 1, the declarant may furnish a bond executed by him as principal and by a corporation qualified under the laws of this State as surety, payable to the State of Nevada, and conditioned upon the performance of the declarant's duties concerning the purchase or reservation of a unit. Each bond must be in a principal sum equal to the amount of the deposit. The bond must be held until:

- (a) Delivered to the declarant at closing;
- (b) Delivered to the declarant because of the purchaser's default under a contract to purchase the unit; or
- (c) Released to the declarant for an additional item, improvement, optional item or alteration, but the amount so released must not exceed the amount due the declarant from the purchaser at the time of the release or the amount expended by the declarant for that purpose, whichever is less.

4. *Pursuant to subsection 1, a deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection 3 of NRS 116.4102 is deemed to be placed in escrow and held in this State when the escrow holder has:*

- (a) *The legal right to conduct business in this State;*
- (b) *A resident agent in this State pursuant to subsection 1 of NRS 14.020;*
and
- (c) *Consented to the jurisdiction of the courts of this State by:*
 - (1) *Maintaining a physical presence in this State; or*
 - (2) *Executing a written instrument containing such consent, with respect to any suit or claim, whether brought by the declarant or purchaser, relating to or arising in connection with such sale or the escrow agreement related thereto.*

Sec. 12. NRS 116.750 is hereby amended to read as follows:

116.750 1. In carrying out the provisions of NRS 116.745 to 116.795, inclusive, the Division and the Ombudsman have jurisdiction to investigate and the Commission and each hearing panel has jurisdiction to take appropriate action against any person who commits a violation, including, without limitation:

- (a) Any association and any officer, employee or agent of an association.
- (b) Any member of an executive board.
- (c) Any community manager who holds a certificate and any other community manager.
- (d) Any person who ~~holds a permit to conduct a study of the reserves of an association issued~~ *is registered as a reserve study specialist, or who conducts a study of reserves, pursuant to chapter 116A of NRS.*
- (e) Any declarant or affiliate of a declarant.
- (f) Any unit's owner.

(g) Any tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto.

2. The jurisdiction set forth in subsection 1 applies to any officer, employee or agent of an association or any member of an executive board who commits a violation and who:

(a) Currently holds his office, employment, agency or position or who held his office, employment, agency or position at the commencement of proceedings against him.

(b) Resigns his office, employment, agency or position:

(1) After the commencement of proceedings against him; or

(2) Within 1 year after the violation is discovered or reasonably should have been discovered.

Sec. 13. NRS 116A.120 is hereby amended to read as follows:

116A.120 ~~["Permit"]~~ "Registration" means ~~a permit~~ registration to conduct a study of the reserves of an association pursuant to NRS 116.31152 ~~issued by~~ with the Division pursuant to this chapter.

Sec. 14. NRS 116A.260 is hereby amended to read as follows:

116A.260 The Division shall maintain in each district office a public docket or other record in which it shall record, from time to time as made:

1. The rulings or decisions upon all complaints filed with that district office.

2. All investigations instituted by that district office in the first instance, upon or in connection with which any hearing has been held, or in which the person charged has made no defense.

3. Denials of applications made to that district office for examination , registration or issuance of a certificate . ~~for permit~~

Sec. 15. NRS 116A.410 is hereby amended to read as follows:

116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate. *The regulations must include, without limitation, provisions that:*

(1) Provide for the issuance of a temporary certificate for a ~~probationary~~ 1-year period ~~for 1 year~~ 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).

~~[(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 ~~probationary~~ 1-year period.

~~[(3)]~~ (5) Provide for the issuance of a certificate at the conclusion of the ~~probationary~~ 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. ~~It~~ 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. 16. NRS 116A.420 is hereby amended to read as follows:

116A.420 1. Except as otherwise provided in this section, a person shall not act as a reserve study specialist unless the person ~~holds a permit.~~ registers with the Division on a form provided by the Division.

2. The Commission shall by regulation provide for the standards of practice for reserve study specialists. ~~who hold permits.~~

3. The Division may investigate any reserve study specialist ~~who holds a permit~~ to ensure that the reserve study specialist is complying with the provisions of this chapter and chapter 116 of NRS and the standards of practice adopted by the Commission.

4. In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a reserve study specialist ~~who holds a permit~~ has violated any provision of this chapter or chapter 116 of NRS or any of the standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the reserve study specialist.

5. In addition to any other remedy or penalty, the Commission may:

(a) Refuse to ~~issue a permit to~~ accept the registration of a person who has failed to pay money which the person owes to the Commission or the Division.

(b) Suspend, revoke or refuse to renew the ~~permit~~ registration of a person who has failed to pay money which the person owes to the Commission or the Division.

6. The provisions of this section do not apply to a member of an executive board or an officer of an association who is acting solely within the scope of his duties as a member of the executive board or an officer of the association.

7. *A person who assists a registered reserve study specialist in preparing a reserve study, signed by a registered reserve study specialist, is not required to register as a reserve study specialist.*

Sec. 17. NRS 116A.430 is hereby amended to read as follows:

116A.430 1. The Commission shall by regulation provide for the ~~[issuance]~~ *registration* by the Division of ~~[permits to]~~ reserve study specialists. The regulations:

(a) Must establish the qualifications for ~~[the issuance of such a permit,]~~ *registration*, including, without limitation, the education and experience required ~~[to obtain such a permit.]~~ *for registration*.

(b) May require applicants to pass an examination ~~[in order to obtain a permit.]~~ *for registration*. If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

(c) May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

(d) Must establish the grounds for initiating disciplinary action against a person ~~[to whom a permit has been issued,]~~ *who has registered*, including, without limitation, the grounds for placing conditions, limitations or restrictions on ~~[a permit]~~ *registration* and for the suspension or revocation of ~~[a permit.]~~ *registration*.

(e) Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for ~~[the issuance of a permit]~~ *registration* in an amount not to exceed the administrative costs of ~~[issuing the permit.]~~ *registration*.

Sec. 18. NRS 116A.440 is hereby amended to read as follows:

116A.440 1. An applicant for a certificate or ~~[permit]~~ *registration* shall submit to the Division:

(a) The social security number of the applicant; and

(b) The statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for *registration* or the issuance of the certificate ; ~~[or permit,]~~ or

(b) A separate form prescribed by the Division.

3. A certificate ~~[or permit]~~ may not be issued *and an application for registration may not be accepted* if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 19. NRS 116A.450 is hereby amended to read as follows:

116A.450 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to *a person who is registered or the holder of a certificate*, ~~{or, permit,}~~ the Division shall deem the *registration or certificate* ~~{or permit}~~ to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the *person who is registered or the holder of the certificate* ~~{or permit}~~ by the district attorney or other public agency pursuant to NRS 425.550 stating that the *person who is registered or the holder of the certificate* ~~{or permit}~~ has complied with a subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate a *registration or certificate* ~~{or permit}~~ that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the *person who is registered or the holder of the certificate* ~~{or permit}~~ that he has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 20. NRS 116A.460 is hereby amended to read as follows:

116A.460 The expiration or revocation of a *registration or certificate* ~~{or permit}~~ by operation of law or by order or decision of any agency or court of competent jurisdiction, or the voluntary surrender of such a *registration or certificate* ~~{or permit}~~ by the *person who is registered or the holder of the certificate* ~~{or permit}~~ does not:

1. Prohibit the Commission or the Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the *person who is registered or the holder of the certificate* ~~{or permit}~~ as authorized pursuant to the provisions of this chapter or chapter 116 of NRS or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or chapter 116 of NRS or the regulations adopted pursuant thereto against the *person who is registered or the holder of the certificate* ~~{or permit}~~.

Sec. 21. NRS 116A.900 is hereby amended to read as follows:

116A.900 1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a certificate or ~~[permit]~~ *registration* is required pursuant to this chapter or chapter 116 of NRS, or any regulation adopted pursuant thereto, if the person does not hold the required certificate or ~~[permit]~~ *has not registered* or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or \$5,000, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Commission shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Commission deems to be relevant.

4. Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter or chapter 116 of NRS if:

(a) A specific statute exempts the person from complying with the provisions of this chapter or chapter 116 of NRS with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

Sec. 21.5. NRS 278.0208 is hereby amended to read as follows:

278.0208 1. A 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. 22. NRS 360.765 is hereby amended to read as follows:

360.765 1. Except as otherwise provided in subsection 2, "business" means:

(a) Any person, except a natural person, that performs a service or engages in a trade for profit; or

(b) Any natural person who performs a service or engages in a trade for profit if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for that activity.

2. The term does not include:

(a) A governmental entity.

(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

(c) A person who operates a business from his home and whose net earnings from that business are not more than $66 \frac{2}{3}$ 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. 23. 1. This act becomes effective on October 1, 2007.

2. Sections 18 and 19 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,
 ➔ are repealed by the Congress of the United States.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 437.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 607.

"SUMMARY—Revises provisions concerning generation and consumption of energy. (BDR 58-232)"

"AN ACT relating to energy; replacing the Solar Energy Systems Demonstration Program Act with the Solar Energy Systems Incentive Program, which provides incentives to certain participants and utilities for energy created from various solar energy systems; providing for the Renewable Energy School Pilot Program, which encourages the development of and determines the feasibility for renewable energy systems on public school properties; establishing a new program for evaluating ~~and rating~~ the energy consumption of residential property; revising legislative findings concerning energy conservation and energy requirements; allocating a portion of the unspent money in the Fund for Energy Assistance and Conservation for a program for improving energy conservation and energy efficiency in residential property; requiring certain electric utilities to make quarterly rate adjustments; requiring the creation of various methods and programs to remove financial disincentives that may discourage energy conservation by various public utilities that purchase natural gas for resale; making various changes relating to the definition of "net metering system"; making various changes relating to offers of net metering to customer-generators; making various changes relating to calculations of net energy measurements concerning net metering systems; changing the definition of "energy efficiency measure," as regards certain persons or entities that sell electricity to retail customers; changing the amount of electricity required to be generated, acquired or saved from solar renewable energy systems, as regards certain persons or entities that sell electricity to retail customers; making various changes relating to the definition of "utility facility" as it relates to the construction of utility facilities and environmental conservation; requiring certain residential properties for sale to be evaluated ~~and rated~~ based on energy consumption and requiring that ~~such~~ certain evaluations ~~and ratings~~ be provided to purchasers of those properties;

~~[clarifying the terms "lowest responsive and responsible bidder" and "best bid" in relation to certain public works;]~~ providing for and revising requirements relating to the analysis of operation and maintenance costs of certain public works; revising certain environmental design standards for building purposes relating to public works; creating certain partial tax abatements and requirements regarding assessed values for real property and environmental design and renewable energy system standards; ~~[requiring certain real estate licensees to adhere to various new requirements in the sale of residential property; creating for certain real estate licensees various continuing education requirements regarding the evaluation and rating of the energy consumption of residential property;]~~ revising the expiration dates for certain partial abatements on various property taxes ~~[--]~~ for certain businesses; enacting the Wind Energy Systems Demonstration Program Act, which provides incentives to certain participants and utilities for energy created from various wind energy systems; enacting the Waterpower Energy Systems Demonstration Program Act, which provides incentives to certain participants and utilities for energy created from various waterpower energy systems; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

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 1-29, 63 and 112 of this bill replace the Solar Energy Systems Demonstration Program Act with a new chapter of NRS which provides for the Solar Energy Systems Incentive Program. The Solar Energy Systems Incentive Program provides incentives to certain participants and utilities for energy created from various solar energy systems.

Section 30 of this bill provides for the Renewable Energy School Pilot Program. The goal of the Program is to encourage the development of and determine the feasibility for renewable energy systems on public school properties.

Sections 62-86 of this bill enact the Wind Energy Systems Demonstration Program Act. The Wind Energy Systems Demonstration Program Act provides incentives to certain participants and utilities for energy created from various wind energy systems. Under this bill, the Wind Energy Systems Demonstration Program Act expires by limitation on June 30, 2011.

Sections 87-106 of this bill enact the Waterpower Energy Systems Demonstration Program Act. The Waterpower Energy Systems Demonstration Program Act provides incentives to certain participants and utilities for energy created from various waterpower energy systems. Under

this bill, the Waterpower Energy Systems Demonstration Program Act expires by limitation on June 30, 2011.

Existing law provides various requirements relating to the sale of residential property. (NRS 113.100-113.150, 645.230-645.321) Sections ~~11, 31, 33-35 and 50~~ of this bill: (1) establish a new program for evaluating ~~and rating~~ the energy consumption of residential property; (2) allocate a portion of the unspent money in the Fund for Energy Assistance and Conservation for a program of improving energy conservation and energy efficiency in residential property; and (3) require certain residential properties for sale to be evaluated ~~and rated~~ based on energy consumption and require that such evaluations and ratings be provided to purchasers of those properties. ~~;~~ (4) ~~require certain real estate licensees to adhere to various new requirements in the sale of residential property; and (5) create various continuing education requirements for those licensees. The continuing education requirements relate to the evaluation and rating of the energy consumption of residential property.~~

Existing law contains legislative findings concerning energy conservation and energy requirements. (NRS 701.010) Sections ~~12 and 71~~ 32 and 38 of this bill accomplish two things. First, they revise those findings in relation to public utilities. Second, they require the creation of various methods and programs which will remove financial disincentives that discourage energy conservation by various public utilities that purchase natural gas for resale.

Existing law allows for quarterly rate adjustments for a public utility which purchases natural gas for resale. (NRS 704.110) Sections ~~6 and 8-11~~ 36, 37, 39-43 and 51 of this bill require certain electric utilities to also make such quarterly rate adjustments.

Existing law provides for requirements relating to electric utilities and net metering systems. (NRS 704.766-704.775) Existing law also provides for requirements relating to the construction of utility facilities and environmental conservation as cited in the Utility Environmental Protection Act. (NRS 704.820-704.900) Sections ~~12-15~~ 44-46 and 49 of this bill make various changes relating to the definition of "net metering system," offers of net metering to customer-generators, calculations relating to net energy measurements as regards net metering systems, and the definition of "utility facility" as it relates to the construction of utility facilities and environmental conservation.

Existing law requires certain persons or entities that sell electricity to retail customers to generate, acquire or save various amounts of electricity through renewable energy systems or efficiency measures. (NRS 704.7801-704.7828) Sections 47 and 48 of this bill change the definition of "energy efficiency measure" and the amount of electricity required to be generated, acquired or saved from solar renewable energy systems.

Existing law provides for certain requirements concerning public works contracts, including requirements concerning the acceptance of bids, the

costs of operating the public work and the various standards of environmental design. (NRS 338.1373-338.645) Sections ~~[17-21]~~ 52-56 of this bill ~~[revise and add to those requirements by, among other things, clarifying the terms "lowest responsive and responsible bidder" and "best bid," providing for and revising]~~ provide for and revise requirements relating to the analysis of operation and maintenance costs, and ~~[revising]~~ revise certain environmental design standards for building purposes.

Existing law provides requirements for the partial abatement of certain property taxes, including property taxes for various residences. (NRS 361.471-361.4735) Sections ~~[22-24]~~ 57-59 of this bill create certain partial tax abatements and certain requirements regarding assessed values for real property, as the abatements and requirements relate to residences which meet various environmental design and renewable energy system standards.

Existing law provides for certain new or expanded businesses to receive a partial abatement on various property taxes. (NRS 361.0687) Sections ~~[27-30]~~ 107 and 109-111 of this bill revise the expiration dates for such partial abatements.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 30, inclusive, of this act.

Sec. 2. The provisions of sections 2 to 29, inclusive, of this act apply to the Solar Energy Systems Incentive Program.

Sec. 3. As used in sections 2 to 29, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 19, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 4. "Applicant" means a person who is applying to participate in the Solar Program.

Sec. 5. "Category" means one of the categories of participation in the Solar Program as set forth in section 23 of this act.

Sec. 6. "Commission" means the Public Utilities Commission of Nevada.

Sec. 7. "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. 8. "Owned, leased or occupied" includes, without limitation, any real property, building or facilities which are owned, leased or occupied under a deed, lease, contract, license, permit, grant, patent or any other type of legal authorization.

Sec. 9. "Participant" means a person who has been selected by the Commission to participate in the Solar Program.

Sec. 10. "Person" includes, without limitation, a public entity.

Sec. 11. "Program year" means the period of July 1 to June 30 of the following year.

Sec. 12. 1. "Public and other property" means any real property, building or facilities which are owned, leased or occupied by:

(a) A public entity;

(b) 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

(c) A corporation for public benefit as defined in NRS 82.021.

2. The term includes, without limitation, any real property, building or facilities which are owned, leased or occupied by:

(a) A church; or

(b) A benevolent, fraternal or charitable lodge, society or association.

3. The term does not include school property.

Sec. 13. "Public entity" means a department, agency or instrumentality of the State or any of its political subdivisions.

Sec. 14. "School property" means any real property, building or facilities which are 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. 15. "Small business" means a business conducted for profit which employs 500 or fewer full-time or part-time employees.

Sec. 16. "Solar energy system" means a facility or energy system that uses photovoltaic cells and solar energy to generate electricity.

Sec. 17. "Solar Program" means the Solar Energy Systems Incentive Program created by section 23 of this act.

Sec. 18. "Task Force" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.

Sec. 19. "Utility" means a public utility that supplies electricity in this State.

Sec. 20. The Commission shall adopt regulations necessary to carry out the provisions of this chapter, including, without limitation, regulations that establish:

1. The type of incentives available to participants in the Solar Program and the level or amount of those incentives;

2. The requirements for a utility's annual plan for carrying out and administering the Solar Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Solar Program;

(b) A detailed budget and schedule for carrying out and administering the Solar Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Solar 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 Solar Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's solar energy system and compliance with the Solar Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Solar Program; and

(f) Any other information required by the Commission.

Sec. 21. In consultation with the Task Force, the Commission shall adopt regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in each applicable category of:

(a) School property;

(b) Public and other property; and

(c) Private residential property and small business property; and

2. The form and content of the master application which a utility must submit to the Commission pursuant to section 24 of this act.

Sec. 22. 1. Each year on or before the date established by the Commission, a utility shall file with the Commission its annual plan for carrying out and administering the Solar Program within its service area for a program year.

2. The Commission shall:

(a) Review each annual plan filed by a utility for compliance with the requirements established by regulation of the Commission; and

(b) Approve each annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Solar Program.

3. A utility shall carry out and administer the Solar Program within its service area in accordance with the utility's annual plan as approved by the Commission.

4. A utility may recover its reasonable and prudent costs, including, without limitation, incentives, that are associated with carrying out and administering the Solar Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 23. 1. The Solar Energy Systems Incentive Program is hereby created.

2. The Solar Program must have three categories as follows:

(a) School property;

(b) Public and other property; and

(c) Private residential property and small business property.

3. To be eligible to participate in the Solar Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to section 21 of this act;

(b) Submit an application to a utility and be selected by the Commission for inclusion in the Solar Program pursuant to sections 24 and 25 of this act;

(c) When installing the solar 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 Solar Program in the category of school property or public and other property, provide for the public display of the solar energy system, including, without limitation, providing for public demonstrations of the solar energy system and for hands-on experience of the solar energy system by the public.

Sec. 24. 1. If an applicant desires to participate in the Solar Program for a program year, the applicant must submit an application to a utility. If an applicant desires to participate in the category of school property or public and other property, the applicant may submit an application for multiple program years, not to exceed 5 years.

2. Each year on or before the date established by the Commission, a utility shall review each application submitted pursuant to subsection 1 to ensure that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program and submit to the Commission:

(a) The utility's recommendations as to which applications should be approved for participation in the Solar Program; and

(b) A master application containing all the applications recommended by the utility.

3. At any time after submitting an application to a utility, an applicant may install or energize his solar energy system if the solar energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who installs or energizes his solar energy system under such circumstances remains eligible to participate in the Solar Program, and the installation or energizing of the solar energy system does not alter the applicant's status on the list of participants or the prioritized waiting list pursuant to section 25 of this act.

Sec. 25. 1. Except as otherwise provided in subsection 2, the Commission may approve, for a program year, solar energy systems:

(a) Totaling 1,000 kilowatts of capacity for school property;

(b) Totaling 760 kilowatts of capacity for public and other property; and

(c) Totaling 1,000 kilowatts of capacity for private residential property and small business property.

2. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the Commission 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.

↪ but in no case may the sum of the allocated total capacities of all the categories be greater than 2,760 kilowatts, which is the sum of the approvable total capacities of all the categories as described in subsection 1.

3. After reviewing the master application submitted by a utility pursuant to section 24 of this act, to ensure that each applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, the Commission shall:

(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Solar 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 Solar Program if any capacity within a category becomes available.

4. Not later than 30 days after the date on which the Commission selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the Commission on behalf of the applicant shall provide written notice of the selection to the applicant.

5. After the Commission selects an applicant to be on the list of participants, the utility which submitted the application to the Commission on behalf of the applicant may approve the solar energy system proposed by the applicant. Except as otherwise provided in subsection 3 of section 24 of this act, immediately upon the utility's approval of the solar energy system, the applicant may install and energize the solar energy system.

Sec. 26. 1. Except as otherwise provided in this section, if the Commission determines that a participant has not complied with the requirements for participation in the Solar Program, the Commission shall, after notice and an opportunity for a hearing, withdraw the participant from the Solar Program.

2. The Commission may, without notice or an opportunity for a hearing, withdraw from the Solar Program:

(a) A participant in the category of private residential property and small business property, if the participant does not complete the installation of a solar energy system within 12 months after the date the participant receives written notice of his selection to participate in the Solar Program.

(b) A participant in the category of school property or public and other property, if the participant does not complete the installation of a solar energy system within 30 months after the date the participant receives written notice of his selection to participate in the Solar Program.

3. A participant who is withdrawn from the Solar Program pursuant to subsection 2 forfeits any incentives.

Sec. 27. In adopting regulations for the Solar Program, the Commission shall adopt regulations establishing an incentive for participation in the Solar Program.

Sec. 28. If a solar energy system used by a participant in the Solar 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. 1. After a participant installs a solar energy system included in the Solar 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.

2. The Commission shall designate the portfolio energy credits issued pursuant to this section as portfolio energy credits generated, acquired or saved from solar renewable energy systems for the purposes of the portfolio standard.

Sec. 30. 1. The Renewable Energy School Pilot Program is hereby created. The goal of the Program is to encourage the development of and determine the feasibility for the integration of renewable energy systems on school properties.

2. The Commission shall adopt regulations for the Program. Such regulations shall include, but not be limited to:

(a) A time frame for implementation of the Program;

(b) The allowed renewable energy systems and combinations of such renewable energy systems on school property;

(c) The amount of capacity that may be installed at each school property that participates in the program;

(d) A process by which a school district may apply for participation in the program;

(e) Requirements for participation by a school district;

(f) The type of transactions allowed between a renewable energy system generator, a school district and a utility;

(g) Incentives which may be provided to a school district or school property to encourage participation; and

(h) Such other parameters as determined by the Commission and are consistent with the development of renewable energy systems at school properties.

3. The program shall be limited to 10 school properties. Not more than six school properties from any one school district may participate in the Program.

4. The Commission shall adopt the regulations necessary to implement the Program not later than March 1, 2008.

5. The Commission shall prepare a report detailing the results of the Program and shall submit the report to the Legislature by December 1, 2008.

6. As used in this section:

(a) "Commission" means the Public Utilities Commission of Nevada.

(b) "Owned, leased or occupied" includes, without limitation, any real property, building or facilities which are owned, leased or occupied under a deed, lease, contract, license, permit, grant, patent or any other type of legal authorization.

(c) "Renewable energy system" has the meaning ascribed to it in NRS 704.7815.

(d) "School district" has the meaning ascribed to it in NRS 395.0075.

(e) "School property" means any real property, building or facilities which are owned, leased or occupied by a public school as defined in NRS 385.007.

(f) "Utility" has the meaning ascribed to it in section 19 of this act.

~~[Section 1]~~ Sec. 31. Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director shall adopt regulations establishing a program for evaluating ~~and rating~~ the energy consumption of residential property in this State.

2. The regulations must include, without limitation:

(a) Standards for evaluating the energy consumption of residential property; and

(b) ~~A system for rating a residential property based on the results of the evaluation of the residential property.~~ Provisions prescribing a form to be used pursuant to section 50 of this act, including, without limitation, provisions that require a portion of the form to provide information on the program of improving energy conservation and energy efficiency in residential property created pursuant to section 33 of this act.

3. As used in this section:

(a) "Dwelling unit" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one person who maintains a household or by two or more persons who maintain a common household.

(b) "Residential property" means any land in this State to which is affixed not less than one or more than four dwelling units.

~~[Sec. 2]~~ Sec. 32. NRS 701.010 is hereby amended to read as follows:

701.010 1. The Legislature finds that:

(a) Energy is essential to the economy of the State and to the health, safety and welfare of the people of the State.

(b) The State has a responsibility to encourage the maintenance of a reliable and economical supply of energy at a level which is consistent with the protection of environmental quality.

(c) The State has a responsibility to encourage the utilization of a wide range of measures which reduce wasteful uses of energy resources.

(d) *The State and the public have an interest in encouraging public utilities to promote and take actions toward energy conservation.*

(e) Planning for energy conservation and future energy requirements should include consideration of state, regional and local plans for land use, urban expansion, transportation systems, environmental protection and economic development.

[(e)] (f) Government and private enterprise need to accelerate research and development of sources of renewable energy and to improve technology related to the research and development of existing sources of energy.

[(f)] (g) While government and private enterprise are seeking to accelerate research and development of sources of renewable energy, they must also prepare for and respond to the advent of competition within the electrical energy industry and are, therefore, encouraged to maximize the use of indigenous energy resources to the extent competitively and economically feasible.

[(g)] (h) Prevention of delays and interruptions in providing energy, protecting environmental values and conserving energy require expanded authority and capability within State Government.

2. It is the policy of this State to encourage participation with all levels of government and private enterprise in cooperative state, regional and national programs to assure adequate supplies of energy resources and markets for such energy resources.

3. It is the policy of this State to assign the responsibility for managing and conserving energy and its sources to agencies whose other programs are similar, to avoid duplication of effort in developing policies and programs for energy.

~~{Sec. 3.}~~ Sec. 33. Chapter 702 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *At the beginning of a fiscal year, 50 percent of the money in the Fund which was allocated to the Division of Welfare and Supportive Services during the preceding fiscal year pursuant to NRS 702.260 and which remains unspent and unencumbered must be distributed to the Housing Division for a program of improving energy conservation and energy efficiency in residential property. The Housing Division may use not more than 6 percent of the money distributed pursuant to this section for its administrative expenses.*

2. *Except as otherwise provided in NRS 702.150, after deduction for its administrative expenses, the Housing Division may use the money distributed pursuant to this section only to provide a qualified purchaser of residential property which has received a deficient evaluation ~~and rating~~ on the energy consumption of the residential property pursuant to the program established in section ~~## 31~~ of this act with a grant to pay for improvements designed to increase the energy conservation and energy efficiency of the residential property or to assist an eligible household in acquiring such improvements.*

3. *To be eligible to receive assistance from the Housing Division pursuant to this section:*

(a) The purchaser of the residential property must have a household income that is not more than ~~150 percent of the federally designated level signifying poverty, as determined by the Housing Division;~~ 80 percent of the median gross family income for the county in which the property is located,

based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for that county; and

(b) The residential property must not meet the standards for energy ~~conservation and energy efficiency~~ consumption established pursuant to section ~~44~~ 31 of this act.

4. The Housing Division shall adopt regulations to carry out and enforce the provisions of this section.

5. In carrying out the provisions of this section, the Housing Division shall:

(a) Solicit advice from the Division of Welfare and Supportive Services and from other knowledgeable persons;

(b) Identify and implement appropriate delivery systems to distribute money from the Fund and to provide other assistance pursuant to this section;

(c) Coordinate with other federal, state and local agencies that provide energy assistance or conservation services to low-income persons and, to the extent allowed by federal law and to the extent practicable, use the same simplified application forms as those other agencies;

(d) Encourage other persons to provide resources and services, including, to the extent practicable, schools and programs that provide training in the building trades and apprenticeship programs;

(e) Establish a process for evaluating the ~~programs~~ program conducted pursuant to this section;

(f) Develop a process for making changes to ~~such programs~~ the program; and

(g) Engage in annual planning and evaluation processes with the Division of Welfare and Supportive Services as required by NRS 702.280.

~~[Sec. 4.]~~ Sec. 34. NRS 702.250 is hereby amended to read as follows:

702.250 1. There is hereby created as a special revenue fund in the State Treasury the Fund for Energy Assistance and Conservation. The Division of Welfare and Supportive Services shall administer the Fund.

2. In addition to the money that must be credited to the Fund from the universal energy charge, all money received from private or public sources to carry out the purposes of this chapter must be deposited in the State Treasury for credit to the Fund.

3. The Division shall, to the extent practicable, ensure that the money in the Fund is administered in a manner which is coordinated with all other sources of money that are available for energy assistance and conservation, including, without limitation, money contributed from private sources, money obtained from the Federal Government and money obtained from any agency or instrumentality of this State or political subdivision of this State.

4. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

5. After deduction of any refunds paid from the Fund pursuant to NRS 702.160, the money in the Fund must be distributed pursuant to NRS 702.260 and 702.270 [.] *and section ~~32~~ 33 of this act.*

~~[Sec. 5.]~~ Sec. 35. NRS 702.280 is hereby amended to read as follows:

702.280 1. The Division of Welfare and Supportive Services and the Housing Division jointly shall establish an annual plan to coordinate their activities and programs pursuant to this chapter. In preparing the annual plan, the Divisions shall solicit advice from knowledgeable persons. The annual plan must include, without limitation, a description of:

(a) The resources and services being used by each program and the efforts that will be undertaken to increase or improve those resources and services;

(b) The efforts that will be undertaken to improve administrative efficiency;

(c) The efforts that will be undertaken to coordinate with other federal, state and local agencies, nonprofit organizations and any private business or trade organizations that provide energy assistance or conservation services to low-income persons;

(d) The measures concerning program design that will be undertaken to improve program effectiveness; and

(e) The efforts that will be taken to address issues identified during the most recently completed annual evaluation conducted pursuant to subsection 2.

2. The Division of Welfare and Supportive Services and the Housing Division jointly shall:

(a) Conduct an annual evaluation of the programs that each Division carries out pursuant to NRS 702.260 and 702.270 [.] *and section ~~32~~ 33 of this act;*

(b) Solicit advice from the Commission as part of the annual evaluation; and

(c) Prepare a report concerning the annual evaluation and submit the report to the Governor, the Legislative Commission and the Interim Finance Committee.

3. The report prepared pursuant to subsection 2 must include, without limitation:

(a) A description of the objectives of each program;

(b) An analysis of the effectiveness and efficiency of each program in meeting the objectives of the program;

(c) The amount of money distributed from the Fund for each program and a detailed description of the use of that money for each program;

(d) An analysis of the coordination between the Divisions concerning each program; and

(e) Any changes planned for each program.

~~[Sec. 6.]~~ Sec. 36. NRS 703.130 is hereby amended to read as follows:

703.130 1. The Commission shall appoint a Deputy Commissioner who shall serve in the unclassified service of the State.

2. The Commission shall appoint a Secretary who shall perform such administrative and other duties as are prescribed by the Commission. The Commission shall also appoint an Assistant Secretary.

3. The Commission may employ such other clerks, experts or engineers as may be necessary.

4. Except as otherwise provided in subsection 5, the Commission:

(a) May appoint one or more hearing officers for a period specified by the Commission to conduct proceedings or hearings that may be conducted by the Commission pursuant to NRS 702.160 and 702.170 and chapters 704, 704A, 704B, 705, 708 and 711 of NRS.

(b) Shall prescribe by regulation the procedure for appealing a decision of a hearing officer to the Commission.

5. The Commission shall not appoint a hearing officer to conduct proceedings or hearings:

(a) In any matter pending before the Commission pursuant to NRS 704.7561 to 704.7595, inclusive; or

(b) In any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an *annual deferred energy accounting adjustment* application . [to clear its deferred accounts.]

6. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

~~[Sec. 7.]~~ Sec. 37. NRS 703.320 is hereby amended to read as follows:

703.320 Except as otherwise provided in [subsection 8] *subsections 8 and 9* of NRS 704.110:

1. In any matter pending before the Commission, if a hearing is required by a specific statute or is otherwise required by the Commission, the Commission shall give notice of the pendency of the matter to all persons entitled to notice of the hearing. The Commission shall by regulation specify:

(a) The manner of giving notice in each type of proceeding; and

(b) The persons entitled to notice in each type of proceeding.

2. The Commission shall not dispense with a hearing:

(a) In any matter pending before the Commission pursuant to NRS 704.7561 to 704.7595, inclusive; or

(b) Except as otherwise provided in *paragraph (f) of subsection [5] 1* of NRS 704.100, in any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an [application to clear its deferred accounts.] *annual deferred energy accounting adjustment application pursuant to NRS 704.187.*

3. In any other matter pending before the Commission, the Commission may dispense with a hearing and act upon the matter pending unless, within 10 days after the date of the notice of pendency, a person entitled to notice of the hearing files with the Commission a request that the hearing be held. If

such a request for a hearing is filed, the Commission shall give at least 10 days' notice of the hearing.

4. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

~~{Sec. 8.}~~ Sec. 38. Chapter 704 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Commission shall adopt regulations to establish methods and programs for a public utility which purchases natural gas for resale that remove financial disincentives which discourage the public utility from supporting energy conservation, including, without limitation:*

(a) *Procedures for a public utility which purchases natural gas for resale to have a mechanism established during a general rate application filed pursuant to NRS 704.110 to ensure that the costs of the public utility for providing service are recovered without regard to the difference in the quantity of natural gas actually sold by the public utility by taking into account the adjusted and annualized quantity of natural gas sold during a test year and the growth in the number of customers of the public utility;*

(b) *Procedures for a public utility which purchases natural gas for resale to apply to the Commission for approval of an activity relating to increasing energy efficiency or energy conservation; and*

(c) *Procedures for a public utility which purchases natural gas for resale to apply to the Commission for the recovery of costs associated with an activity approved by the Commission pursuant to paragraph (b).*

2. *The regulations adopted pursuant to subsection 1 must ensure that the methods and programs consider the recovery of costs, stabilization of revenue and any reduction of risk for the public utility which purchases natural gas for resale.*

~~{Sec. 9.}~~ Sec. 39. NRS 704.062 is hereby amended to read as follows: 704.062 "Application to make changes in any schedule" and "application" include, without limitation:

1. A general rate application;
2. An application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale; and
3. An *annual deferred energy accounting adjustment* application . [to clear deferred accounts.]

~~{Sec. 10.}~~ Sec. 40. NRS 704.069 is hereby amended to read as follows:

704.069 1. Except as otherwise provided in [subsection 8] *subsections 8 and 9* of NRS 704.110, the Commission shall conduct a consumer session to solicit comments from the public in any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which:

(a) A public utility has filed a general rate application, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale ~~or~~ [or] ~~[an application to clear its deferred accounts]~~ [;],

an annual deferred energy accounting adjustment application pursuant to NRS 704.187 or an annual rate adjustment application; and

(b) The changes proposed in the application will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that will exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less.

2. In addition to the case-specific consumer sessions required by subsection 1, the Commission shall, during each calendar year, conduct at least one general consumer session in the county with the largest population in this State and at least one general consumer session in the county with the second largest population in this State. At each general consumer session, the Commission shall solicit comments from the public on issues concerning public utilities. Not later than 60 days after each general consumer session, the Commission shall submit the record from the general consumer session to the Legislative Commission.

~~[Sec. 41.]~~ *Sec. 41.* NRS 704.100 is hereby amended to read as follows:

704.100 1. Except as otherwise provided in NRS 704.075 and 704.68904 to 704.68984, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097 or pursuant to the regulations adopted by the Commission in accordance with subsection 4 of NRS 704.040:

[1.] (a) A public utility shall not make changes in any schedule, unless the public utility:

[(a)] (1) Files with the Commission an application to make the proposed changes and the Commission approves the proposed changes pursuant to NRS 704.110; or

[(b)] (2) Files the proposed changes with the Commission using a letter of advice in accordance with the provisions of [subsection 5.

2.] *paragraph (f).*

(b) A public utility shall adjust its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8 of NRS 704.110 based on changes in the public utility's recorded costs of natural gas purchased for resale.

[3.] (c) *An electric utility shall, between annual deferred energy accounting adjustment applications filed pursuant to NRS 704.187, adjust its rates on a quarterly basis pursuant to subsection 9 of NRS 704.110.*

(d) A public utility shall post copies of all proposed schedules and all new or amended schedules in the same offices and in substantially the same form, manner and places as required by NRS 704.070 for the posting of copies of schedules that are currently in force.

[4.] (e) A public utility may not set forth as justification for a rate increase any items of expense or rate base that previously have been considered and disallowed by the Commission, unless those items are clearly identified in the application and new facts or considerations of policy for

each item are advanced in the application to justify a reversal of the prior decision of the Commission.

[5.] (f) Except as otherwise provided in [subsection 6,] *paragraph (g)*, if the proposed change in any schedule does not change any rate or will result in an increase in annual gross operating revenue, as certified by the public utility, in an amount that does not exceed \$2,500:

[(a)] (1) The public utility may file the proposed change with the Commission using a letter of advice in lieu of filing an application; and

[(b)] (2) The Commission shall determine whether it should dispense with a hearing regarding the proposed change.

[6.] (g) If the applicant is a public utility furnishing telephone service and the proposed change in any schedule will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that does not exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less, the Commission shall determine whether it should dispense with a hearing regarding the proposed change.

[7.] (h) In making the determination pursuant to [subsection 5 or 6,] *paragraph (f) or (g)*, the Commission shall first consider all timely written protests, any presentation that the Regulatory Operations Staff of the Commission may desire to present, the application of the public utility and any other matters deemed relevant by the Commission.

2. *As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.*

~~[Sec. 42.]~~ Sec. 42. NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 and 704.68904 to 704.68984, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097 or pursuant to the regulations adopted by the Commission in accordance with subsection 4 of NRS 704.040:

1. If a public utility files with the Commission an application to make changes in any schedule, including, without limitation, changes that will result in a discontinuance, modification or restriction of service, the Commission shall investigate the propriety of the proposed changes to determine whether to approve or disapprove the proposed changes. If an electric utility files such an application and the application is a general rate application or an *annual deferred energy accounting adjustment* application, [to clear its deferred accounts,] the Consumer's Advocate shall be deemed a party of record.

2. Except as otherwise provided in subsections 3 and [13,] 12, if a public utility files with the Commission an application to make changes in any schedule, the Commission shall issue a written order approving or disapproving, in whole or in part, the proposed changes:

(a) For a public utility that is a PAR carrier, not later than 180 days after the date on which the application is filed; and

(b) For all other public utilities, not later than 210 days after the date on which the application is filed.

3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. Except as otherwise provided in subsection 4, in determining whether to approve or disapprove any increased rates, the Commission shall consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the date on which the certification required by this subsection is filed with the Commission, or within the period set forth in subsection 2, whichever time is longer, the Commission shall make such order in reference to the increased rates as is required by this chapter. An electric utility shall file a general rate application pursuant to this subsection at least once every [24] 36 months based on the following schedule:

(a) An electric utility that primarily serves less densely populated counties shall file a general rate application on or before [October 3, 2005,] *December 3, 2007*, and at least once every [24] 36 months thereafter.

(b) An electric utility that primarily serves densely populated counties shall file a general rate application on or before [November 15, 2006,] *December 3, 2008*, and at least once every [24] 36 months thereafter.

4. In addition to submitting the statement required pursuant to subsection 3, a public utility which purchases natural gas for resale or an electric utility may submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances. If such a statement is filed, it must include all increases and decreases in revenue and expenses which may occur within 210 days after the date on which its general rate application is filed with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy. If a public utility submits such a statement, the public utility has the burden of proving that the expected

changes in circumstances set forth in the statement are reasonably known and are measurable with reasonable accuracy. If the Commission determines that the public utility has met its burden of proof:

(a) The Commission shall consider the statement submitted pursuant to this subsection and evidence relevant to the statement in addition to the statement required pursuant to subsection 3 as evidence in establishing just and reasonable rates for the public utility; and

(b) The public utility is not required to file with the Commission the certification that would otherwise be required pursuant to subsection 3.

5. If a public utility files with the Commission an application to make changes in any schedule and the Commission does not issue a final written order regarding the proposed changes within the time required by this section, the proposed changes shall be deemed to be approved by the Commission.

6. If a public utility files with the Commission a general rate application, the public utility shall not file with the Commission another general rate application until all pending general rate applications filed by that public utility have been decided by the Commission unless, after application and hearing, the Commission determines that a substantial financial emergency would exist if the public utility is not permitted to file another general rate application sooner. The provisions of this subsection do not prohibit the public utility from filing with the Commission, while a general rate application is pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection 7, *a quarterly rate adjustment pursuant to subsection 8 or 9, any information relating to deferred accounting requirements pursuant to NRS 704.185 or an annual deferred energy accounting adjustment application [to clear its deferred accounts pursuant to subsection 9,] pursuant to NRS 704.187, if the public utility is otherwise authorized to so file by those provisions . [to file such an application.]*

7. A public utility may file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale once every 30 days. The provisions of this subsection do not apply to:

(a) An electric utility [using deferred accounting pursuant to NRS 704.187;] *which is required to adjust its rates on a quarterly basis pursuant to subsection 9; or*

(b) A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8.

8. A public utility which purchases natural gas for resale must request approval from the Commission to adjust its rates on a quarterly basis between annual rate adjustment applications based on changes in the public utility's recorded costs of natural gas purchased for resale. If the Commission approves such a request:

(a) The public utility shall file written notice with the Commission before the public utility makes a quarterly rate adjustment between annual rate adjustment applications. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the public utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and

(IV) Any other information required by the Commission.

(c) The public utility shall file an annual rate adjustment application with the Commission. The annual rate adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual rate adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of natural gas included in each quarterly rate adjustment and the annual rate adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the public utility, and the Commission shall order the public utility to adjust its rates if the Commission determines that any recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application were not reasonable or prudent.

9. [Except as otherwise provided in subsection 10 and subsection 5 of NRS 704.100, if an electric utility using deferred accounting pursuant to NRS 704.187 files an application to clear its deferred accounts and to change one or more of its rates based upon changes in the costs for purchased fuel or purchased power, the Commission, after a public hearing and by an appropriate order:

(a) Shall allow the electric utility to clear its deferred accounts by refunding any credit balance or recovering any debit balance over a period not to exceed 3 years, as determined by the Commission.

(b) Shall not allow the electric utility to recover any debit balance, or portion thereof, in an amount that would result in a rate of return during the period of recovery that exceeds the rate of return authorized by the Commission in the most recently completed rate proceeding for the electric utility.

10. Before allowing an electric utility to clear its deferred accounts pursuant to subsection 9, the Commission shall determine whether the costs for purchased fuel and purchased power that the electric utility recorded in its deferred accounts are recoverable and whether the revenues that the electric utility collected from customers in this State for purchased fuel and purchased power are properly recorded and credited in its deferred accounts. The Commission shall not allow the electric utility to recover any costs for purchased fuel and purchased power that were the result of any practice or transaction that was undertaken, managed or performed imprudently by the electric utility.

11.] *An electric utility shall adjust its rates on a quarterly basis based on changes in the public utility's recorded costs of purchased fuel or purchased power in the following manner:*

(a) An electric utility shall file written notice with the Commission on or before August 15, 2007, and every quarter thereafter of the quarterly rate adjustment to be made by the electric utility for the following quarter. The first quarterly rate adjustment by the electric utility will take effect on October 1, 2007, and each subsequent quarterly rate adjustment will take effect every quarter thereafter. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) Each electric utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The electric utility shall begin providing such written notice to its customers not later than 30 days after the date on which the electric utility files a written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) *Must include the following:*

(I) *The total amount of the increase or decrease in the electric utility's revenues from the rate adjustment, stated in dollars and as a percentage;*

(II) *The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;*

(III) *A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and*

(IV) *Any other information required by the Commission.*

(c) *An electric utility shall file an annual deferred energy accounting adjustment application pursuant to NRS 704.187 with the Commission. The annual deferred energy accounting adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.*

(d) *The proceeding regarding the annual deferred energy accounting adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of purchased fuel and purchased power included in each quarterly rate adjustment and the annual deferred energy accounting adjustment application.*

10. If an electric utility files an *annual deferred energy accounting adjustment* application [to clear its deferred accounts] pursuant to subsection 9 and NRS 704.187 while a general rate application is pending, the electric utility shall:

(a) Submit with its *annual deferred energy accounting adjustment* application [to clear its deferred accounts] information relating to the cost of service and rate design; and

(b) Supplement its general rate application with the same information, if such information was not submitted with the general rate application.

[12.] 11. A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the Commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing such a facility.

[13.] 12. A PAR carrier may, in accordance with this section and NRS 704.100, file with the Commission a request to approve or change any schedule to provide volume or duration discounts to rates for telecommunication service for an offering made to all or any class of business customers. The Commission may conduct a hearing relating to the request, which must occur within 45 days after the date the request is filed with the Commission. The request and schedule shall be deemed approved if the request and schedule are not disapproved by the Commission within 60 days after the date the Commission receives the request.

[14.] 13. As used in this section:

(a) "Electric utility" has the meaning ascribed to it in NRS 704.187.

(b) "Electric utility that primarily serves densely populated counties" [has the meaning ascribed to it in NRS 704.187.] *means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 400,000 or more than it does from customers located in counties whose population is less than 400,000.*

(c) "Electric utility that primarily serves less densely populated counties" [has the meaning ascribed to it in NRS 704.187.] *means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is less than 400,000 than it does from customers located in counties whose population is 400,000 or more.*

(d) "PAR carrier" has the meaning ascribed to it in NRS 704.68942.

~~[Sec. 43.]~~ Sec. 43. NRS 704.187 is hereby amended to read as follows:

704.187 1. [Except as otherwise provided in section 36 of chapter 16, Statutes of Nevada 2001, beginning on March 1, 2001, an] *An* electric utility that purchases fuel or power shall use deferred accounting by recording upon its books and records in deferred accounts all increases and decreases in costs for purchased fuel and purchased power that are prudently incurred by the electric utility.

2. An electric utility using deferred accounting shall include in its annual report to the Commission a statement showing, for the period of recovery, the allocated rate of return for each of its operating departments in this State using deferred accounting. If, during the period of recovery, the rate of return for any operating department using deferred accounting is greater than the rate of return authorized by the Commission in the most recently completed rate proceeding for the electric utility, the Commission shall order the electric utility that recovered costs for purchased fuel or purchased power through its rates during the reported period to transfer to the next energy adjustment period that portion of the amount recovered by the electric utility that exceeds the authorized rate of return.

3. Except as otherwise provided in this section, an electric utility using deferred accounting shall file an annual *deferred energy accounting adjustment* application [to clear its deferred accounts based on the following schedule:

(a) An electric utility that primarily serves less densely populated counties shall file an annual application to clear its deferred accounts on December 1, 2005, and in December] *on or before March 1, 2008, and on or before March 1* of each year thereafter . [on a date specified by the Commission.

(b) An electric utility that primarily serves densely populated counties shall file an annual application to clear its deferred accounts on January 17, 2006, and in January of each year thereafter on a date specified by the Commission.]

4. [An electric utility using deferred accounting may file a semiannual application to clear its deferred accounts if the net change in revenues necessary to clear its deferred accounts for the reported period is more than 5 percent of the total revenues generated by the electric utility during that period from its rates for purchased fuel and purchased power most recently authorized by the Commission.

5.] As used in this section:

(a) ["Application to clear its deferred accounts"] "*Annual deferred energy accounting adjustment application*" means an application filed by an electric utility pursuant to this section and subsection 9 of NRS 704.110.

(b) "Costs for purchased fuel and purchased power" means all costs which are prudently incurred by an electric utility and which are required to purchase fuel, to purchase capacity and to purchase energy. The term does not include any costs that the Commission determines are not recoverable pursuant to subsection [10] 9 of NRS 704.110.

(c) "Electric utility" means any public utility or successor in interest that:

(1) Is in the business of providing electric service to customers;

(2) Holds a certificate of public convenience and necessity issued or transferred pursuant to this chapter; and

(3) In the most recently completed calendar year or in any other calendar year within the 7 calendar years immediately preceding the most recently completed calendar year, had a gross operating revenue of \$250,000,000 or more in this State.

↪ The term does not include a cooperative association, nonprofit corporation, nonprofit association or provider of electric service which is declared to be a public utility pursuant to NRS 704.673 and which provides service only to its members.

[(d) "Electric utility that primarily serves densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 400,000 or more than it does from customers located in counties whose population is less than 400,000.

(e) "Electric utility that primarily serves less densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is less than 400,000 than it does from customers located in counties whose population is 400,000 or more.]

~~[Sec. 14.]~~ Sec. 44. 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. 15.]~~ Sec. 45. 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 ~~[20]~~ 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 ~~[20]~~ 100 kilowatts, the utility may:

(a) 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), 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) Not charge the customer-generator any standby charge.

↪ At the time of installation or upgrade of any portion of a net metering system, the utility must require or allow a customer-generator governed by this subsection to pay the entire cost of the installation or upgrade of the portion of the net metering system.

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 measurement 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. 46.}~~ Sec. 46. 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 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 ~~[Except as otherwise provided in this subparagraph, excess]~~ electricity may be carried forward to subsequent billing periods indefinitely, but ~~[Any credit for excess electricity that accrues to the customer generator during a billing period that is not applied toward the electricity consumed by the customer generator before the billing period for the month of September of each year for the customer generator must expire without compensation to the customer generator, and]~~ 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. 47. NRS 704.7802 is hereby amended to read as follows:

704.7802 1. "Energy efficiency measure" means any measure designed, intended or used to improve energy efficiency if:

(a) The measure is installed on or after January 1, 2005, at the service location of a retail customer of a provider of electric service in this State;

(b) The measure reduces the consumption of energy by the retail customer; and

(c) The costs of the acquisition or installation of the measure are directly reimbursed, in whole or in part, by the provider of electric service.

2. The term does not include ~~the~~

~~(a) Any~~ any demand response measure or load limiting measure that shifts the consumption of energy by a retail customer from one period to another period.

~~[(b) Any solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity or any fossil fuel.]~~

Sec. 48. NRS 704.7821 is hereby amended to read as follows:

704.7821 1. For each provider of electric service, the Commission shall establish a portfolio standard. The portfolio standard must require each provider to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is:

(a) For calendar years 2005 and 2006, not less than 6 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(b) For calendar years 2007 and 2008, not less than 9 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(c) For calendar years 2009 and 2010, not less than 12 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(d) For calendar years 2011 and 2012, not less than 15 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(e) For calendar years 2013 and 2014, not less than 18 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(f) For calendar year 2015 and for each calendar year thereafter, not less than 20 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

2. In addition to the requirements set forth in subsection 1, the portfolio standard for each provider must require that:

(a) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not less than ~~15~~ 6 percent of that amount must be generated or acquired from solar renewable energy systems.

(b) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures. If the provider intends to use energy efficiency measures to comply with its portfolio standard during any calendar year, of the total amount of electricity saved from energy efficiency measures for which the provider seeks to obtain portfolio energy credits pursuant to this paragraph, at least 50 percent of that amount must be saved from energy efficiency measures installed at service locations of residential customers of the provider, unless a different percentage is approved by the Commission.

(c) If the provider acquires or saves electricity from a portfolio energy system or efficiency measure pursuant to a renewable energy contract or energy efficiency contract with another party:

(1) The term of the contract must be not less than 10 years, unless the other party agrees to a contract with a shorter term; and

(2) The terms and conditions of the contract must be just and reasonable, as determined by the Commission. If the provider is a utility provider and the Commission approves the terms and conditions of the contract between the utility provider and the other party, the contract and its terms and conditions shall be deemed to be a prudent investment and the utility provider may recover all just and reasonable costs associated with the contract.

3. If, for the benefit of one or more of its retail customers in this State, the provider has directly reimbursed, in whole or in part, the costs of the acquisition or installation of a solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

4. The Commission shall adopt regulations that establish a system of portfolio energy credits that may be used by a provider to comply with its portfolio standard.

5. Except as otherwise provided in subsection 6, each provider shall comply with its portfolio standard during each calendar year.

6. If, for any calendar year, a provider is unable to comply with its portfolio standard through the generation of electricity from its own renewable energy systems or, if applicable, through the use of portfolio energy credits, the provider shall take actions to acquire or save electricity pursuant to one or more renewable energy contracts or energy efficiency contracts. If the Commission determines that, for a calendar year, there is not or will not be a sufficient supply of electricity or a sufficient amount of energy savings made available to the provider pursuant to renewable energy contracts and energy efficiency contracts with just and reasonable terms and conditions, the Commission shall exempt the provider, for that calendar year, from the remaining requirements of its portfolio standard or from any appropriate portion thereof, as determined by the Commission.

7. The Commission shall adopt regulations that establish:

(a) Standards for the determination of just and reasonable terms and conditions for the renewable energy contracts and energy efficiency contracts that a provider must enter into to comply with its portfolio standard.

(b) Methods to classify the financial impact of each long-term renewable energy contract and energy efficiency contract as an additional imputed debt of a utility provider. The regulations must allow the utility provider to propose an amount to be added to the cost of the contract, at the time the

contract is approved by the Commission, equal to a compensating component in the capital structure of the utility provider. In evaluating any proposal made by a utility provider pursuant to this paragraph, the Commission shall consider the effect that the proposal will have on the rates paid by the retail customers of the utility provider.

8. As used in this section:

(a) "Energy efficiency contract" means a contract to attain energy savings from one or more energy efficiency measures owned, operated or controlled by other parties.

(b) "Renewable energy contract" means a contract to acquire electricity from one or more renewable energy systems owned, operated or controlled by other parties.

(c) "Terms and conditions" includes, without limitation, the price that a provider must pay to acquire electricity pursuant to a renewable energy contract or to attain energy savings pursuant to an energy efficiency contract.

~~[Sec. 17.]~~ Sec. 49. 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. 18.]~~ Sec. 50. Chapter 113 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection ~~[4.]~~ 3, the seller shall have the energy consumption of the residential property evaluated ~~[and rated]~~ pursuant to the program established ~~[pursuant to]~~ in section ~~[1.]~~ 31 of this act.

2. Except as otherwise provided in subsection ~~[5, not more than 3 days after a seller and a purchaser have entered into an agreement for the conveyance of residential property.]~~ 4, before closing a transaction for the conveyance of residential property, the seller ~~[for his agent]~~ shall serve the purchaser ~~[for his agent]~~ with the completed evaluation ~~[and rating]~~ required pursuant to subsection 1, if any, on a form to be provided by the Director of the Office of Energy, as prescribed in regulations adopted pursuant to section 31 of this act.

3. ~~[After service of the completed disclosure form but before conveyance of the residential property to the purchaser pursuant to subsection 2, a purchaser or his agent may:~~

- ~~(a) Rescind the agreement to purchase the property; or~~
- ~~(b) Close escrow and accept the residential property.~~

~~4.]~~ Subsection 1 does not apply to a sale or intended sale of residential property:

- (a) By foreclosure pursuant to chapter 107 of NRS.
- (b) Between any co-owners of the property, spouses or persons related within the third degree of consanguinity.
- (c) By a person who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person who relocates to another county, state or country before title to the property is transferred to a purchaser.

~~[5.]~~ (d) If the seller and purchaser agree to waive the requirements of subsection 1.

4. If an evaluation ~~[and rating]~~ of a residential property was completed not more than 5 years before the seller and purchaser entered into the agreement to purchase the residential property, the seller ~~[for his agent]~~ may serve the purchaser ~~[for his agent]~~ with that evaluation. ~~[and rating]~~

~~[Sec. 19.]~~ Sec. 51. NRS 228.360 is hereby amended to read as follows:

228.360 The Consumer's Advocate:

1. Shall intervene in and represent the public interest in:

(a) All proceedings conducted pursuant to NRS 704.7561 to 704.7595, inclusive; and

(b) All proceedings conducted pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an annual deferred energy accounting adjustment application. ~~[to clear its deferred accounts.]~~

2. May, with respect to all public utilities except railroads and cooperative utilities, and except as otherwise provided in NRS 228.380:

(a) Conduct or contract for studies, surveys, research or expert testimony relating to matters affecting the public interest or the interests of utility customers.

(b) Examine any books, accounts, minutes, records or other papers or property of any public utility subject to the regulatory authority of the Public Utilities Commission of Nevada in the same manner and to the same extent as authorized by law for members of the Public Utilities Commission of Nevada and its staff.

(c) Except as otherwise provided in subsection 1, petition for, request, initiate, appear or intervene in any proceeding concerning rates, charges, tariffs, modifications of service or any related matter before the Public Utilities Commission of Nevada or any court, regulatory body, board, commission or agency having jurisdiction over any matter which the Consumer's Advocate may bring before or has brought before the Public Utilities Commission of Nevada or in which the public interest or the interests of any particular class of utility customers are involved. The Consumer's Advocate may represent the public interest or the interests of any particular class of utility customers in any such proceeding, and he is a real party in interest in the proceeding.

3. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

~~{Sec. 20.}~~ Sec. 52. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as ~~{sections 21 and 22}~~ sections 53 and 54 of this act.

~~{Sec. 21.}~~ Sec. 53. ~~{For the purpose of determining which bidder is the lowest responsive and responsible bidder for the purposes of subsection 5 of NRS 338.1385 or subsection 4 of NRS 338.143 or the contractor who submitted the best bid for the purposes of subsection 1 of NRS 338.1389 or subsection 1 of NRS 338.147, the value of each bid submitted to a public body for the construction, repair or reconstruction of any public work which is a public building must be calculated as the aggregate sum of the:~~

~~1. Total cost set forth in the bid for the construction, repair or reconstruction of the public building; and~~

~~2. Estimate of the cost to operate and maintain the public building for its expected useful life included in the bid pursuant to section 22 of this act.}~~
(Deleted by amendment.)

~~{Sec. 22.}~~ Sec. 54. Each public body that solicits a bid ~~{submitted to a public body}~~ for the construction, repair or reconstruction of any public work which is a public building of at least 10,000 square feet and to which paragraph (a) of subsection 1 of NRS 338.1385 or paragraph (a) of subsection 1 of NRS 338.143 applies must ~~include}~~ provide a detailed analysis of the cost of operating and maintaining the building for its expected useful life.

~~{Sec. 23.}~~ Sec. 55. NRS 338.187 is hereby amended to read as follows:

338.187 1. ~~{Except as otherwise provided in subsection 2, each}~~ *Each public work which is the construction of a new occupied public building [whose construction will be sponsored or financed by this State must, when completed,] of at least 10,000 square feet must meet the energy and water conservation requirements [to be certified at or meet the equivalent of the] [base] of at least:*

(a) The silver level [or higher in accordance with] of the Leadership in Energy and Environmental Design Green Building Rating System; [] or [an equivalent standard,]

(b) An equivalent level of an equivalent rating system, as adopted by the Director of the Office of Energy pursuant to NRS 701.217.

2. ~~{During each biennium, at least two occupied public buildings whose construction will be sponsored or financed by this State must be designated as demonstration projects and must, when completed, meet the requirements to be certified at or meet the equivalent of the silver level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to NRS 701.217 if:~~

~~(a) The Director of the Office of Energy, in consultation with the State Board of Examiners and the State Public Works Board, has determined that it is feasible for the buildings to meet such requirements and standards and that it is a cost effective investment to do so; and~~

~~(b) The agency or agencies that will occupy the buildings have agreed to allow the buildings to be designated as demonstration projects pursuant to this subsection.~~

3. ~~Each occupied public building whose construction is sponsored or financed by a local government may meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to NRS 701.217.~~

4. ~~*An applicable public body may request a hearing to appeal a ruling by the Director of the Office of Energy that a public work of the public body does not meet the requirements of subsection 1.*~~

3. *The Director of the Office of Energy shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations relating to any energy and water conservation requirements of an equivalent rating system pursuant to subsection 1 and a hearing pursuant to subsection 2.*

4. As used in this section, "occupied public building" means a climate-controlled public building used [primarily as an office space or work area for persons employed] by this State or a local government. [The term does not include a public building used primarily as a storage facility or warehouse or for similar purposes.]

~~[Sec. 24.]~~ Sec. 56. NRS 338.190 is hereby amended to read as follows:

338.190 1. Before it begins to construct or renovate any *public work which is an occupied public building* ~~[which is larger than 20,000 square feet, each agency of the State or a political subdivision, district, authority, board or public corporation of the State]~~, a *public body* shall obtain a detailed analysis of the cost of operating and maintaining the building for its expected useful life.

2. The analysis must:

(a) Estimate the cost to construct or renovate the occupied public building and the cost to operate and maintain the *occupied public* building; and

(b) Identify measures, including, without limitation, for the:

(1) Conservation of water;

(2) Conservation of energy and energy efficiency that will generate cost savings within 10 years that are equal to or greater than the cost of implementation; and

(3) Use of types of energy which are alternatives to fossil fuels, such as active and passive applications of solar energy, wind and geothermal energy, ➔ which can be included in the *occupied public* building in its construction or renovation.

3. The ~~[agency of government]~~ *public body* which proposes to construct or renovate the occupied public building must consider the results of the analysis required by this section in deciding upon the type of construction or renovation and the components and systems which will be included in the *occupied public* building. The ~~[agency of government]~~ *public body* shall consider the use of types of energy which are alternatives to fossil fuels and any other energy conservation measures identified in the analysis into the design of the *occupied public* building if it is determined to be in the best interest of the ~~[State.]~~ *public body*.

4. The ~~[agency of government]~~ *public body* may select, through the bidding process, a contractor to conduct the analysis required pursuant to this section. If a contractor is selected to conduct the analysis, any contract for the purchase, lease or rental of cost-saving measures must provide that all payments, other than any obligations that become due if the contract is terminated before the contract expires, be made from the cost savings.

5. As used in this section, "occupied public building" means a *climate-controlled* public building used ~~[primarily as an office space or work area for persons employed]~~ by an agency of the State or a political subdivision, district, authority, board or public corporation of the State. ~~[The term does not include a public building used primarily as a storage facility or warehouse or for similar purposes.]~~

~~[Sec. 25.]~~ Sec. 57. Chapter 361 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[26.]~~ 58 and ~~[27.]~~ 59 of this act.

~~[Sec. 26.]~~ Sec. 58. 1. The county assessors shall grant a partial abatement from the ad valorem taxes levied in a county on a single-family

residence that ~~is certified at or meets the equivalent of the~~ meets the energy and water conservation requirements of at least:

~~(a) The silver level for higher by a person authorized to grant such certification in accordance with its equivalent,~~ of the Leadership in Energy and Environmental Design Green Building Rating System ~~FF~~ ; or

(b) An equivalent level of an equivalent rating system, as adopted by the Director of the Office of Energy pursuant to NRS 701.217.

2. The partial abatement ~~must~~ ;

(a) Must be for a duration of not more than 10 years ~~and must~~ ;

(b) Must not be applied to the portion of the rate that is attributable to the school district; and

(c) Must not exceed 50 percent of the taxes on real property payable each year pursuant to this chapter.

3. The Nevada Tax Commission shall establish by regulation the qualifications and methods to determine eligibility for the abatement, the duration of the abatement, the size of the parcel for which the abatement may be granted and the amount of the abatement.

4. The Nevada Tax Commission shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The county treasurer; and

(c) The county assessor.

5. As used in this section:

(a) "Single-family residence" means a parcel or other unit of real property or unit of personal property which is intended or designed to be occupied by one family with facilities for living, sleeping, cooking and eating.

(b) "Unit of personal property" includes, without limitation, any:

(1) Mobile or manufactured home, whether or not the owner thereof also owns the real property upon which it is located; or

(2) Taxable unit of a condominium, common-interest community, planned unit development or similar property,

➡ if classified as personal property for the purposes of this chapter.

(c) "Unit of real property" includes, without limitation, any taxable unit of a condominium, common-interest community, planned unit development or similar property, if classified as real property for the purposes of this chapter.

~~[Sec. 27.]~~ Sec. 59. 1. Except as otherwise provided in subsection 2, any value added by a renewable energy system located on real property must be excluded from the assessed value of the real property.

2. Value added by a renewable energy system must not be excluded from the assessed value of real property during any period in which the person that owns the real property is receiving another abatement or exemption from the taxes imposed by this chapter.

3. As used in this section, "renewable energy system" has the meaning ascribed to it in NRS 704.7815.

~~[Sec. 28.] Sec. 60. [Chapter 645 of NRS is hereby amended by adding thereto a new section to read as follows:]~~

~~1.—A licensee shall not enter into an agreement with a seller of residential property to promote the sale of the residential property unless the seller has [completed the evaluation and rating of the energy consumption of the residential property pursuant to] met the requirements of subsection 1 or 4 of section 18 of this act.~~

~~2.—If [the] an evaluation and rating of the energy consumption of a residential property pursuant to section 18 of this act indicate that the residential property may qualify for the program established pursuant to section 3 of this act, a licensee shall provide a written notification to the purchaser regarding the program.] (Deleted by amendment.)~~

~~[Sec. 29.] Sec. 61. [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 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,]:~~

~~(a) Shall adopt by regulation standards for continuing education that require a person issued a license as a real estate broker or real estate broker salesman to complete a course of instruction on:~~

~~(1) The program for evaluating and rating the energy consumption of residential property established pursuant to section 1 of this act;~~

~~(2) The program for energy efficiency and energy conservation established pursuant to section 3 of this act; and~~

~~(3) Programs for mortgages that allow a purchaser of residential property to include costs incurred in improving the energy efficiency of a residential property in a mortgage on a residential property.~~

~~(b) May, without limitation, adopt by regulation standards for continuing education that:~~

~~[(a)] (1) 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)] (2) 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.] (Deleted by amendment.)~~

Sec. 62. Sections 62 to 86, inclusive, of this act may be cited as the Wind Energy Systems Demonstration Program Act.

Sec. 63. As used in sections 62 to 86, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 64 to 78, inclusive, of this act have the meaning ascribed to them in those sections.

Sec. 64. "Agricultural property" means any real property employed for an agricultural use as defined in NRS 361A.030.

Sec. 65. "Applicant" means a person who is applying to participate in the Wind Demonstration Program.

Sec. 66. "Category" means one of the categories of participation in the Wind Demonstration Program as set forth in section 79 of this act.

Sec. 67. "Commission" means the Public Utilities Commission of Nevada.

Sec. 68. "Committee" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.

Sec. 69. "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. 70. "Participant" means a person who has been selected by the Committee pursuant to section 83 of this act to participate in the Wind Demonstration Program.

Sec. 71. "Person" includes, without limitation, a governmental entity.

Sec. 72. "Program year" means the period of July 1 to June 30 of the following year.

Sec. 73. "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. 74. "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. 75. "Small business" means a business conducted for profit which employs 500 or fewer full-time or part-time employees.

Sec. 76. "Utility" means a public utility that supplies electricity in this State.

Sec. 77. "Wind Demonstration Program" or "Program" means the Wind Energy Systems Demonstration Program created by section 79 of this act.

Sec. 78. "Wind energy system" means a facility or energy system for the generation of electricity that uses wind energy to generate electricity.

Sec. 79. 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 80 of this act;

(b) Submit an application to a utility and be selected by the Committee for inclusion in the Program pursuant to sections 82 and 83 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. 80. 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. 81. 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 82 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. 82. 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 83 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. 83. 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. 84. 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. 85. 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 energy 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. 86. 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. 87. Sections 87 to 106, inclusive, of this act may be cited as the Waterpower Energy Systems Demonstration Program Act.

Sec. 88. As used in sections 87 to 106, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 89 to 98, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 89. "Applicant" means a person who is applying to participate in the Waterpower Demonstration Program.

Sec. 90. "Commission" means the Public Utilities Commission of Nevada.

Sec. 91. "Committee" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.

Sec. 92. "Participant" means a person who has been selected by the Commission to participate in the Waterpower Demonstration Program.

Sec. 93. "Person" includes, without limitation, a public entity.

Sec. 94. "Program year" means the period of July 1 to June 30 of the following year.

Sec. 95. "Utility" means a public utility that supplies electricity in this State.

Sec. 96. "Waterpower" has the meaning ascribed to it in subsection 3 of NRS 704.7811.

Sec. 97. "Waterpower energy system" means a facility or energy system for the generation of electricity that uses waterpower to generate electricity.

Sec. 98. "Waterpower Demonstration Program" or "Program" means the Waterpower Energy Systems Demonstration Program created by section 99 of this act.

Sec. 99. 1. The Waterpower Energy Systems Demonstration Program is hereby created.

2. The Waterpower Demonstration Program is created for agricultural uses.

3. To be eligible to participate in the Waterpower Demonstration Program, a person must meet the qualifications established pursuant to subsection 4 and apply to and be selected by the Committee for inclusion in the Waterpower Demonstration Program.

4. The Commission shall adopt regulations providing for the qualifications an applicant must meet to qualify to participate in the Waterpower Demonstration Program.

Sec. 100. The Committee is responsible for the administration and delivery of the Waterpower Demonstration Program as approved by the Commission.

Sec. 101. The Commission shall adopt regulations that establish:

1. The level, amount and type of incentives available for participants in the Waterpower Demonstration Program.

2. The requirements for an annual plan for the administration and delivery of the Waterpower Demonstration Program. The requirements for an annual plan must include, without limitation:

(a) An advertising plan;

(b) A detailed budget;

(c) A schedule;

(d) Administrative processes, including, without limitation, a copy of the application and process for accepting applications;

(e) An inspection and verification process;

(f) Proposed training and educational activities; and

(g) Any other information required by the Commission.

Sec. 102. 1. On or before February 21, 2008, and on or before February 1 of each subsequent year, each utility shall file with the Commission for approval an annual plan for the administration and delivery of the Waterpower Demonstration Program for the program year beginning July 1, 2008, and each subsequent year thereafter.

2. On or before July 1, 2008, and on or before each July 1 of each subsequent year, the Commission shall review the annual plan for compliance with the requirements set forth by regulation of the Commission.

3. On or before November 1, 2008, and on or before November 1 of each subsequent year, each utility shall submit to the Committee a recommendation of which applications received should be accepted into the program. The Committee shall review the applications to ensure that the applicant meets the requirements adopted pursuant to subsection 4 of section 99 of this act.

4. The Committee may approve, from among the applications recommended by each utility, waterpower energy systems totaling:

(a) For the program year beginning July 1, 2008, 200 kilowatts of capacity;

(b) For the program year beginning July 1, 2009, an additional 100 kilowatts of capacity; and

(c) For the program year beginning July 1, 2010, an additional 100 kilowatts of capacity.

Sec. 103. Each utility may recover its reasonable and prudent costs, including, without limitation, incentives that are associated with carrying out and administering the Waterpower Demonstration Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 104. 1. After a participant installs a waterpower energy system included in the Waterpower 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 waterpower energy system of the participant.

2. All portfolio energy credits issued for a waterpower energy system installed pursuant to the Waterpower Demonstration Program are assigned to and become the property of the utility administering the Program.

Sec. 105. If the waterpower energy system used by a participant in the Waterpower 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. 106. If the Commission determines that a participant did not comply with the requirements for participation in the Waterpower Demonstration Program, the Commission shall, after notice and an opportunity for a hearing, withdraw the participant from the Waterpower Demonstration Program. Notice or a hearing is not required for dropping an applicant from the Program who fails to meet any completion time frames specified for the Program.

~~[Sec. 30.]~~ Sec. 107. Section 9 of chapter 335, Statutes of Nevada 2001, as last amended by section 5 of chapter 467, Statutes of Nevada 2003, at page 2927, is hereby amended to read as follows:

Sec. 9. 1. This section and sections 1, 2 and 4 to 8, inclusive, of this act become effective on July 1, 2001.

2. ~~{Sections 2 and}~~ Section 5 of this act ~~{expire}~~ expires by limitation on June 30, 2009.

3. ~~{Section 3 of this act becomes effective on July 1, 2009.}~~

4. Section 2 of this act becomes effective at 12:01 a.m. on July 1, 2001.

Sec. 108. Section 24 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 90, is hereby amended to read as follows:

Sec. 24. The provisions of sections 4 to 21, inclusive, of this act expire by limitation on June 30, ~~2010,~~ 2007.

~~{Sec. 31.}~~ *Sec. 109.* Section 7 of chapter 467, Statutes of Nevada 2003, at page 2927, is hereby amended to read as follows:

Sec. 7. 1. This act becomes effective on July 1, 2003.

2. ~~{Sections 2 and}~~ Section 4 of this act ~~{expire}~~ expires by limitation on June 30, 2009.

~~{Sec. 32.}~~ *Sec. 110.* Section 5 of chapter 389, Statutes of Nevada 2005, at page 1516, is hereby amended to read as follows:

Sec. 5. ~~{1.}~~ This ~~{section and sections 1, 2 and 4 of this}~~ act ~~{become}~~ becomes effective on July 1, 2005.

~~{2. Section 2 of this act expires by limitation on June 30, 2009.}~~

~~{3. Section 3 of this act becomes effective on July 1, 2009.}~~

~~{Sec. 33.}~~ *Sec. 111.* Section 3 of chapter 335, Statutes of Nevada 2001, as amended by section 40 of chapter 2, Statutes of Nevada 2003, at page 56, and section 3 of chapter 389, Statutes of Nevada 2005, at page 1515, are hereby repealed.

Sec. 112. With regard to solar energy systems, it is the intent of the Legislature to substitute the provisions of this section, sections 1 to 29, inclusive, 44 to 49, inclusive, and 108 of this act in a continuing way for the provisions of the Solar Energy Systems Demonstration Program Act, being chapter 331, Statutes of Nevada 2003, as last amended by chapter 2, Statutes of Nevada 2005, 22nd Special Session, except that if there is a conflict between the provisions of this section, sections 1 to 29, inclusive, 44 to 49, inclusive, and 108 of this act, and the provisions of the Solar Energy Systems Demonstration Program Act, the provisions of this section, sections 1 to 29, inclusive, 44 to 49, inclusive, and 108 of this act control.

~~{Sec. 34.}~~ *Sec. 113. {1. This section and sections 2, 6 to 17, inclusive, 19 to 27, inclusive, and 29 to 33, inclusive, of this act become effective upon passage and approval.*

~~2. Sections 1, 3, 4, 5, 18 and 28 of this act become effective on January 1, 2009.}~~

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) For all other purposes besides those described in paragraph (a):

(1) For this section and sections 30, 32, 36 to 46, inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of this act, upon passage and approval.

(2) For sections 1 to 29, inclusive, 47, 108, and 112 of this act, on July 1, 2007.

(3) For sections 62 to 106, inclusive, of this act, on October 1, 2007.

(4) For sections 31, 33, 34, 35 and 48 of this act, on January 1, 2009.

(5) For section 50 of this act, on January 1, 2011.

2. Sections 62 to 106, inclusive, of this act expire by limitation on June 30, 2011.

TEXT OF REPEALED SECTIONS

Section 3 of chapter 335, Statutes of Nevada 2001:

Sec. 3. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this state may, pursuant to NRS 360.750, apply to the commission on economic development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the commission on economic development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county or city whose population is 50,000 or more:

(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at least \$5,000,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this state is at least 100 percent of the average statewide hourly wage as established by the employment security division of the department of employment, training and rehabilitation on July 1 of each fiscal year.

(b) If the business is a new business in a county or city whose population is less than 50,000:

(1) The business will make a capital investment in the county of at least \$5,000,000 if the business is an industrial or manufacturing business or at least \$500,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this state is at least 100 percent of the average statewide hourly wage as established by the employment security division of the department of employment, training and rehabilitation on July 1 of each fiscal year.

3. ~~HH~~ *Except as otherwise provided in NRS 361.0685, if a partial abatement from the taxes imposed by this chapter is approved by the commission on economic development pursuant to NRS 360.750:*

(a) The partial abatement must:

- (1) Be for a duration of at least 1 year but not more than 10 years;
- (2) Not exceed 50 percent of the taxes *on personal property* payable by a business each year pursuant to this chapter; and
- (3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The executive director of the commission on economic development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the commission granted. The executive director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

Section 3 of chapter 389, Statutes of Nevada 2005:

Sec. 3. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Commission on Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Commission on Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:

(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at least \$5,000,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:

(1) The business will make a capital investment in the county of at least \$5,000,000 if the business is an industrial or manufacturing business or at least \$500,000 if the business is not an industrial or manufacturing business; and

(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage *or the average countywide hourly wage, whichever is less*, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

3. Except as otherwise provided in NRS 361.0685, if a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 448.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 434.

"SUMMARY—Revises provisions governing certain appeals to the Nevada Tax Commission. (BDR 32-1353)"

"AN ACT relating to taxation; revising provisions governing certain appeals to the Nevada Tax Commission; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires that meetings of public bodies be open to the public. (Chapter 241 of NRS) Exceptions to the general rule are allowed by specific statute. (NRS 241.020) One such exception authorizes the Nevada Tax Commission to hold a closed hearing on an appeal by a taxpayer if the taxpayer requests that the hearing be closed. (NRS 360.247) ~~(This bill)~~ Section 1 of this bill limits the purpose for which a taxpayer may request a

closed hearing to the receipt of proprietary or confidential information and provides the Commission with the discretion to determine whether the material to be presented at the hearing is proprietary or confidential information. Section 1 also clarifies that if a taxpayer requests that the hearing be closed, any receipt of information, discussion, deliberation, motion or vote by the Commission on the appeal must occur in the closed hearing. ~~[This bill]~~ Section 1 also requires the Commission to announce its decision on the appeal in an open meeting ~~and each commissioner to disclose his vote on the appeal.~~ in a manner that does not make public any proprietary or confidential information. The Commission also must prepare an abstract of the decision, which must be made available to the public ~~[]~~ within 45 days after the Commission makes its decision. In addition, section 1 provides immunity from criminal penalties and civil liability to members of the Commission and officers, agents and employees of the Department of Taxation for the use or publication of proprietary or confidential information.

Under existing law, it is a misdemeanor for a member of the Nevada Tax Commission and officers, agents and employees of the Department of Taxation to make public certain taxpayer information. (NRS 372.750) Section 2 of this bill extends this criminal penalty to interveners and interested third parties in taxpayer matters.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 360.247 is hereby amended to read as follows:

360.247 1. Except as otherwise provided in this section, any appeal to the Nevada Tax Commission which is taken by a taxpayer concerning his liability for tax must be heard during a session of the Commission which is open to the public. ~~[A] Upon request by the taxpayer, a hearing on such an appeal may be closed to the public [if the taxpayer requests that it be closed.~~

~~2. If a taxpayer requests that a hearing on an appeal be closed pursuant to subsection 1, any receipt of information, discussion, deliberation, motion or vote by the Commission on the appeal must occur in the closed hearing. After the Commission has made a decision on the appeal in the closed hearing, the Commission shall reconvene in a session which is open to the public. In the open session, the Chairman shall announce the decision of the Commission on the appeal and each commissioner who participated in the decision shall disclose his vote on the appeal.~~

~~3. to receive proprietary or confidential information.~~

2. As soon as ~~is reasonably~~ practicable after closing a hearing, the Nevada Tax Commission shall determine whether the information to be presented in the closed hearing is proprietary or confidential information. If the Commission determines that the information is not proprietary or confidential information, the Commission shall immediately open the hearing to the public. If the Commission determines that the information is proprietary or confidential information:

(a) The Commission shall receive the information in a manner which ensures that all the members of the Commission have a reasonable and adequate opportunity to make any inquiries that a member believes to be necessary and appropriate; and

(b) The receipt of the information and any discussion, deliberation, motion or vote on the appeal by the Commission must occur in the closed hearing. After the Commission has made a decision on the appeal in the closed hearing, the Commission shall open the hearing to the public and announce the decision in a manner that does not make public any proprietary or confidential information.

3. Not later than 45 days after the Nevada Tax Commission makes a decision on an appeal in a closed hearing pursuant to this section, the Commission shall prepare an abstract that explains the reasons for the decision, which must be made available to the public upon request. Such an abstract must not contain any proprietary or confidential information relating to the taxpayer.

4. A member of the Nevada Tax Commission and an officer, agent or employee of the Department is not subject to any criminal penalty or civil liability for the use or publication of proprietary or confidential information regardless of whether the information was received in a closed hearing.

5. The Nevada Tax Commission shall adopt regulations which establish procedures:

(a) By which a taxpayer may request a closed hearing pursuant to this section; and

(b) By which the Commission may determine whether information is proprietary or confidential information during a closed hearing.

6. As used in this section:

(a) "Confidential economic information":

(1) Means any information which is not available to the public generally, which confers an economic benefit on the holder of the information as a result of its unavailability and which is the subject of reasonable efforts by the taxpayer to maintain its secrecy.

(2) Includes, without limitation, information relating to the amount or source of any income, profits, losses or expenditures of the taxpayer, such as data relating to costs, prices or customers.

(b) "Proprietary or confidential information":

(1) Means:

(I) Any trade secret or confidential economic information that is submitted to the Nevada Tax Commission by the taxpayer and is determined to be proprietary or confidential by the Commission; or

(II) Any information that a specific statute declares to be confidential or prohibits the Commission from making public.

(2) Does not include any information that has been published for public distribution or is otherwise available to the public generally or in the public domain.

Sec. 2. NRS 372.750 is hereby amended to read as follows:

372.750 1. Except as otherwise provided in this section ~~and~~ *and NRS 360.247*, it is a misdemeanor for any member of the Tax Commission, ~~for~~ officer, agent or employee of the Department, *intervener or other interested third party*, to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular of them, set forth or disclosed in any return, or to permit any return or copy of a return, or any book containing any abstract or particulars of it to be seen or examined by any person not connected with the Department.

2. The Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

3. The Governor may, by general or special order, authorize the examination of the records maintained by the Department under this chapter by other state officers, by tax officers of another state, by the Federal Government, if a reciprocal arrangement exists, or by any other person. The information so obtained may not be made public except to the extent and in the manner that the order may authorize that it be made public.

4. Upon written request made by a public officer of a local government, the Executive Director shall furnish from the records of the Department, the name and address of the owner of any seller or retailer who must file a return with the Department. The request must set forth the social security number of the owner of the seller or retailer about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. The information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

5. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.

6. Relevant information may be disclosed as evidence in an appeal by the taxpayer from a determination of tax due.

7. At any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon a person a penalty for fraud or intent to evade the tax imposed by this chapter on the sale, storage, use or other consumption of any vehicle, vessel or aircraft becomes final or is affirmed by the Commission, any member of the Commission or officer, agent or employee of the Department may publicly disclose the

identity of that person and the amount of tax assessed and penalties imposed against him.

~~[Sec. 2.]~~ Sec. 3. The provisions of NRS 360.247, as amended by section 1 of this act, do not apply to any appeal to the Nevada Tax Commission which has been taken by a taxpayer concerning his liability for tax before the effective date of this act.

~~[Sec. 3.]~~ Sec. 4. This act becomes effective upon passage and approval.

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 452.

Bill read second time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 400.

"SUMMARY—Makes various changes to provisions governing the regulation of motor vehicle manufacturers, dealers, distributors, brokers, rebuilders and lessors. (BDR 43-644)"

"AN ACT relating to motor vehicles; requiring inspections for certain vehicles to ensure their roadworthiness; amending criteria which may be used to deny, revoke or refuse to renew a license; amending provisions relating to surety bonds provided by brokers, manufacturers, distributors, rebuilders and dealers; requiring a driving school to inspect its vehicles annually; increasing penalties for a violation of rules and regulations regarding driving schools; increasing the penalties for selling a vehicle with an altered odometer; amending provisions relating to the wrecking and salvaging of vehicles; amending the procedures for a transfer of ownership in a vehicle by a junk certificate; repealing a provision relating to special license plates issued to a dealer; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill expands the authority of investigators of the Department of Motor Vehicles in enforcing laws relating to acts of fraud by businesses licensed by the Department. (NRS 481.048)

Section 4 of this bill requires certain vehicles to be inspected and certified for roadworthiness before they may be given a title. Section 5 of this bill requires a licensed dealer, rebuilder, manufacturer, distributor, broker or long-term or short-term lessor and other licensees to display their licenses in a conspicuous place. Section 6 of this bill creates a legal presumption that a person engaged in certain activities is a vehicle dealer for purposes of chapter 482 of NRS, and section 20 of this bill provides criminal penalties for anyone doing so without a license.

Section 17 of this bill requires a person who submits a license renewal electronically to keep the required statement regarding child support on file for 3 years. (NRS 425.520, 482.319) Sections 20, 21, 51, 53, 57, 61 and 62 of this bill create new and amend existing provisions of NRS relating to an applicant's unfitness for a license. (NRS 482.322, 482.3255, 487.160, 487.490, 487.564, 487.650) Sections 22 and 23 of this bill provide the conditions under which a dealer's branch location may be operated. (NRS 482.326, 482.332) Section 22.5 of this bill allows dealers to use not more than six license plates issued to them by the Department for personal use by them or by a member of their immediate family. (NRS 482.330)

Sections 7 and 24 of this bill require the Director of the Department to consider any administrative fines imposed upon a dealer, distributor, rebuilder, manufacturer or broker before renewal of a license. The Director may also require an additional bond before renewing a license. (NRS 482.3331)

Sections 25 and 27 of this bill increase the amount of a bond which must be given as surety by a dealer, distributor, rebuilder, manufacturer or broker and establishes a procedure for collecting on the bond. (NRS 482.3333, 482.345) Section 26 of this bill prohibits a broker from displaying or using a vehicle in conjunction with an advertisement if he is not licensed to sell the vehicle. Existing law provides that a used vehicle dealer may sell at wholesale a new vehicle to a new or used vehicle dealer. (NRS 482.350) Section 28 of this bill limits this provision to certain instances.

Section 30 of this bill exempts a holder of a temporary permit as a salesman from the right to a hearing if a license is denied. (NRS 482.353) Sections 37, 40 and 55 of this bill provide expanded criminal penalties for submitting falsified information to the Department. ~~[of Motor Vehicles.]~~ (NRS 482.436, 482.555, 487.200)

Section 42 of this bill requires a driving school to ensure its vehicles are inspected annually for roadworthiness and safety. Section 43 of this bill allows the Department to impose an administrative fine which does not exceed \$2,500 for violation of provisions relating to driving schools. Section 44 of this bill changes the length of time a license to operate a driving school is valid from 5 years to 1 year. (NRS 483.730)

Section 46 of this bill expands the activities relating to altering vehicle odometers for which a person is subject to a criminal penalty. (NRS 484.6063, 484.6067) Section 47 of this bill increases the penalty for knowingly selling a motor vehicle with an odometer that has been altered for the purpose of fraud. (NRS 484.6067) Section 48 of this bill raises the minimum amount that a person must pay to someone harmed by a violation of certain provisions relating to odometers from \$1,500 to \$2,500. (NRS 484.6068)

Section 52 of this bill defines when a salvage vehicle is considered to be in its entirety as opposed to when it is considered to be in parts. Section 54 of this bill expands existing provisions that require a wrecker to maintain

records relating to vehicles in his possession. (NRS 487.170) Section 56 of this bill revises the procedures by which a vehicle is transferred by a junk certificate. (NRS 487.260)

Section 60 of this bill makes failure to pay or otherwise discharge a final judgment rendered against a garageman, instead of just failure to comply with an order of a court, grounds for the Department to revoke or refuse to renew his certificate of registration. (NRS 487.563)

Section 66 of this bill makes it a misdemeanor to violate any section of chapter 108 of NRS relating to statutory liens, unless otherwise provided. Sections 67 and 68 of this bill require certain regulations relating to activities performed by an inspection station to be adopted by the State Environmental Commission, not the Department of Motor Vehicles. (NRS 445B.775, 445B.785) Section 69 of this bill requires sellers and long-term lessors to provide evidence of compliance with emissions requirements with the dealer's report of sale. (NRS 445B.800) Section 70 of this bill repeals the authority of dealers to register certain vehicles without paying the government services taxes on those vehicles. (NRS 482.321)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 481.048 is hereby amended to read as follows:

481.048 1. The Director shall appoint, within the limits of legislative appropriations, investigators for the Division of Compliance Enforcement.

2. The duties of the investigators are to travel the State and:

(a) Act as investigators in the enforcement of the provisions of chapters 482 and 487 of NRS, NRS 108.265 to 108.360, inclusive, and 108.440 to 108.500, inclusive, as those sections pertain to motor vehicles, trailers, motorcycles, recreational vehicles and semitrailers, as defined in chapter 482 of NRS.

(b) Act as advisers to ~~dealers~~ any business licensed by the Department in connection with any problems arising under the provisions of ~~chapter 482~~ chapters 108, 482, 483 and 487 of NRS.

(c) ~~Cooperate with~~ Advise and assist personnel of the Nevada Highway Patrol in the enforcement of ~~the~~ traffic laws and motor vehicle registration laws as they pertain to ~~dealers~~ any business licensed by the Department.

(d) Act as investigators in the enforcement of the provisions of NRS 483.700 to 483.780, inclusive, relating to the licensing of schools and instructors for training drivers.

(e) Exercise police powers to prevent acts of fraud by any business licensed by the Department as those acts pertain to motor vehicle laws.

(f) Perform such other duties as may be imposed by the Director.

~~Section 1.~~ *Sec. 1.5.* Chapter 482 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. "Kit trailer" means a vehicle without motive power which:

1. Is designed to carry property on its own structure and to be drawn or towed by a motor vehicle;

2. *Is sold new in an unassembled, prepackaged condition;*
 3. *Does not exceed 6 feet in width and 8 feet in length once assembled;*
- and*

4. *Does not weigh more than 250 pounds unladen.*

Sec. 3. "Service vehicle" or "work vehicle" means a vehicle owned and operated by a licensed dealer, manufacturer, distributor, long-term or short-term lessor, rebuilder or broker in the furtherance of his business. Such vehicles include, without limitation, a passenger shuttle bus, a tow car, a delivery vehicle or any other vehicle used to transport customers or property to or from the place of business of the dealer, manufacturer, distributor, long-term or short-term lessor, rebuilder or broker.

Sec. 4. 1. Before an application for a title for a rebuilt, reconstructed or specially constructed vehicle may be submitted, the vehicle must be inspected and a certificate of inspection must be completed on a form prescribed by the Department which attests that:

(a) *The work performed on the vehicle meets the standards of the manufacturer for mechanical fitness and safety;*

(b) *The vehicle has been repaired to the standards of the manufacturer;*

and

(c) *Any safety equipment, including, without limitation, occupant restraint devices, which was present in the vehicle at the time the vehicle was manufactured is present and operational to the standards of the manufacturer.*

2. *An application for a title for a rebuilt, reconstructed or specially constructed vehicle must include an affidavit which states that the vehicle:*

(a) *Has been inspected pursuant to subsection 1;*

(b) *Is in a condition to be operated safely on the highways of this State;*

and

(c) *Has all safety equipment required by the manufacturer.*

3. *Any of the following persons may complete the inspection and sign the certificate of inspection and the affidavit required by subsections 1 and 2:*

(a) *A garageman who operates a garage that is registered pursuant to NRS 487.560;*

(b) *The owner of a body shop licensed pursuant to NRS 487.630;*

(c) *A rebuilder licensed pursuant to NRS 482.325; or*

(d) *Any employee of a garageman, owner of a body shop or rebuilder who is authorized by his employer to inspect the vehicle and attest that the repairs have been completed in accordance with the standards of the manufacturer.*

Sec. 5. *A dealer, rebuilder, manufacturer, distributor, broker or long-term or short-term lessor licensed under the provisions of this chapter shall post his license, and all licenses issued to persons in his employ who are licensed as salesmen, in a conspicuous place clearly visible to the general public at the location described in the license.*

Sec. 6. *Except as otherwise provided in subsection 2 of NRS 482.020, the following activities are prima facie evidence that a person is engaged in the activities of a vehicle dealer:*

1. *A person displays for sale, sells or offers for sale any vehicle which he does not personally own;*
2. *A person demonstrates, or allows the demonstration or operation of, any vehicle for the purpose of sale or future sale or as an inducement to purchase the vehicle; or*
3. *A person engages in an activity specified by subsection 1 of NRS 482.020 or any other act regarding a vehicle which would lead a reasonable person to believe that he may purchase that vehicle or a similar vehicle.*

Sec. 7. *The Director shall, before renewing any license issued pursuant to NRS 482.325, consider:*

1. *The number and types of complaints received against a manufacturer, distributor, rebuilder or dealer by the Department; and*
2. *Any administrative fines imposed upon the manufacturer, distributor, rebuilder or dealer by the Department pursuant to NRS 482.554 and 482.565,*
➡ *and may require the manufacturer, distributor, rebuilder or dealer to provide a good and sufficient bond in the amount set forth in subsection 1 of NRS 482.345 for each category of vehicle sold at each place of business and in each county in which the manufacturer, distributor, rebuilder or dealer is licensed to do business.*

Sec. 8. NRS 482.010 is hereby amended to read as follows:

482.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 482.0105 to 482.137, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 9. NRS 482.011 is hereby amended to read as follows:

482.011 "Based" means *the place or domicile where a vehicle is primarily used*, or if a vehicle is often used in more than one county, then it means *the place or domicile where the vehicle is primarily stored or [maintained.] kept*. A vehicle registered for intercounty or interstate operation under the provisions of chapter 706 of NRS shall be deemed to have no base.

Sec. 10. NRS 482.0125 is hereby amended to read as follows:

482.0125 "Branch" means an established place of business of a vehicle dealer *or long-term or short-term lessor* at which he conducts business simultaneously with, and physically separated from, his principal established place of business.

Sec. 11. NRS 482.0127 is hereby amended to read as follows:

482.0127 "Broker" means a person who, for a fee or any other consideration, offers to provide to another person the service of arranging, negotiating or assisting in the purchase of a new or used vehicle which has

not been registered *or for which an ownership interest has not been taken* by the broker.

Sec. 12. NRS 482.020 is hereby amended to read as follows:

482.020 1. "Dealer" or "vehicle dealer" means any person who:

(a) For compensation, money or other thing of value sells, exchanges, buys, offers or displays for sale, negotiates or attempts to negotiate a sale or exchange of an interest in a vehicle subject to registration under this chapter or induces or attempts to induce any person to buy or exchange an interest in a vehicle;

(b) *Represents himself as having the ability to sell, exchange, buy or negotiate the sale or exchange of an interest in a vehicle subject to registration under this chapter or in any other state or territory of the United States;*

(c) Receives or expects to receive a commission, money, brokerage fee, profit or any other thing of value from the seller or purchaser of a vehicle; or

~~[(c)]~~ (d) Is engaged wholly or in part in the business of selling vehicles or buying or taking in trade vehicles for the purpose of resale, selling or offering for sale or consignment to be sold or otherwise dealing in vehicles, whether or not he owns the vehicles.

2. "Dealer" or "vehicle dealer" does not include:

(a) An insurance company, bank, finance company, government agency or any other person coming into possession of a vehicle, acquiring a contractual right to a vehicle or incurring an obligation with respect to a vehicle in the performance of official duties or under the authority of any court of law, if the sale of the vehicle is for the purpose of saving the seller from loss or pursuant to the authority of a court of competent jurisdiction;

(b) A person, other than a long-term or short-term lessor, who is not engaged in the purchase or sale of vehicles as a business, but is disposing of vehicles acquired by the owner for his use and not for the purpose of avoiding the provisions of this chapter, or a person who sells not more than three personally owned vehicles in any 12-month period;

(c) Persons regularly employed as salesmen by dealers, licensed under this chapter, while those persons are acting within the scope of their employment;
~~[(c)]~~

(d) Persons who are incidentally engaged in the business of soliciting orders for the sale and delivery of vehicles outside the territorial limits of the United States if their sales of such vehicles produce less than 5 percent of their total gross revenue ~~[-]~~; or

(e) *Persons who sell kit trailers but no other vehicle defined by this chapter.*

Sec. 13. NRS 482.076 is hereby amended to read as follows:

482.076 Except as otherwise provided in NRS 482.363521, "new vehicle" means a vehicle ~~that~~:

~~1.—Has~~ :

1. *That has* never been registered with the Department and has never been registered with the appropriate agency of authority of any other state, the District of Columbia, any territory or possession of the United States or foreign state, province or country; ~~for~~

~~2. If it~~

2. *For which a certificate of title has never been issued by the Department or by the appropriate agency of authority of any other state, the District of Columbia, any territory or possession of the United States or foreign state, province or country; or*

3. *That has been so registered ~~and~~ or for which a certificate of title has been so issued, if the vehicle is equipped with an odometer ~~that~~ registers 2,500 miles or less . ~~on the odometer.~~*

Sec. 14. NRS 482.097 is hereby amended to read as follows:

482.097 1. "Rebuilder" means a person engaged in the ~~business~~ :

(a) *Business* of reconstructing motor vehicles by the alteration, addition or substitution of substantial or essential parts ~~that~~ ; or

(b) *Assembling of replica or specially constructed vehicles from unassembled parts.*

2. Nothing in this section shall be construed to require any licensed new or used vehicle dealer to secure a license as a rebuilder in conjunction with rebuilding in his own facilities.

Sec. 15. NRS 482.1005 is hereby amended to read as follows:

482.1005 1. "Recreational park trailer" means a vehicle which is primarily designed to provide temporary living quarters for recreational, camping or seasonal use and which:

~~1-~~ (a) Is built on a single chassis mounted on wheels;

~~2-~~ (b) Has a gross trailer area not exceeding 400 square feet in the set-up mode; and

~~3-~~ (c) Is certified by the manufacturer as complying with Standard No. A119.5 of the American National Standards Institute.

2. *Nothing in this section shall be construed to mean that a recreational park trailer is a vehicle which must be registered pursuant to the provisions of this chapter.*

Sec. 16. NRS 482.220 is hereby amended to read as follows:

482.220 1. If the vehicle to be registered is a specially constructed, reconstructed, rebuilt or foreign vehicle, that fact must be stated in the application. If the vehicle is a foreign vehicle which has been registered theretofore outside of this State, the owner shall exhibit to the Department the certificate of title and registration card or other evidence of such former registration as may be in the applicant's possession or control or such other evidence as will satisfy the Department that the applicant is the lawful owner or possessor of the vehicle.

2. The application must be accompanied by a motor vehicle inspection certificate signed by a representative of the Department or, as one of the Department's authorized agents, by:

- (a) A peace officer;
- (b) A dealer;
- (c) A rebuilder;
- (d) An automobile wrecker; or
- (e) A garageman or a service station operator or attendant, so designated in writing by the Director.

3. ~~[The]~~ *Except for a peace officer acting in his official capacity, the Department or any of its authorized inspection agents are entitled to charge \$1 for inspection of any vehicle described in subsection 1.*

4. *For the purposes of this section, "peace officer" means any employee, volunteer or designee of a law enforcement agency acting in an official capacity.*

Sec. 16.5. NRS 482.260 is hereby amended to read as follows:

482.260 1. When registering a vehicle, the Department and its agents or a registered dealer shall:

(a) Collect the fees for license plates and registration as provided for in this chapter.

(b) ~~[Except as otherwise provided in NRS 482.321, collect]~~ *Collect* the governmental services tax on the vehicle, as agent for the county where the applicant intends to base the vehicle for the period of registration, unless the vehicle is deemed to have no base.

(c) Collect the applicable taxes imposed pursuant to chapters 372, 374, 377 and 377A of NRS.

(d) Issue a certificate of registration.

(e) If the registration is performed by the Department, issue the regular license plate or plates.

(f) If the registration is performed by a registered dealer, provide information to the owner regarding the manner in which the regular license plate or plates will be made available to him.

2. Upon proof of ownership satisfactory to the Director, he shall cause to be issued a certificate of title as provided in this chapter.

3. Except as otherwise provided in NRS 371.070, every vehicle being registered for the first time in Nevada must be taxed for the purposes of the governmental services tax for a 12-month period.

4. The Department shall deduct and withhold 2 percent of the taxes collected pursuant to paragraph (c) of subsection 1 and remit the remainder to the Department of Taxation.

5. A registered dealer shall forward all fees and taxes collected for the registration of vehicles to the Department.

Sec. 17. NRS 482.319 is hereby amended to read as follows:

482.319 1. ~~[A]~~ *Except as otherwise provided in subsection 5, a natural person who applies for the issuance or renewal of a license issued pursuant to the provisions of NRS 482.318 to 482.363105, inclusive, shall submit to the Department the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services*

pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Department shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Department.

3. A license may not be issued or renewed by the Department pursuant to the provisions of NRS 482.318 to 482.363105, inclusive, if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Department shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

5. *If a licensee renews an existing license electronically, the licensee shall keep the original of the statement required pursuant to subsection 1 at his place of business for not less than 3 years after submitting the electronic renewal. The statement must be available during business hours for inspection by any authorized agent of the Director or the State of Nevada.*

Sec. 18. NRS 482.320 is hereby amended to read as follows:

482.320 1. Except as otherwise provided in NRS 482.31776, a manufacturer, distributor, dealer or rebuilder who has an established place of business in this State ~~[, or a manufacturer who has executed a franchise with a dealer or distributor who has an established place of business in this State,]~~ and who owns or controls any new or used vehicle of a type otherwise required to be registered under the provisions of this chapter, may operate that vehicle or allow it to be operated for purposes of display, demonstration, maintenance, sale or exchange if there is displayed thereon a special plate or plates issued to the manufacturer, distributor, dealer or rebuilder as provided in NRS 482.275 and 482.330. ~~[Such a vehicle may also be moved or operated for the purpose of towing other vehicles which are to be sold or exchanged, or stored for the purpose of sale or exchange.]~~ Owners or officers of the corporation, *managers*, heads of departments and salesmen may *be temporarily assigned and* operate a vehicle displaying such plates.

2. The provisions of this section do not apply to:

(a) Work or service vehicles owned or controlled by a manufacturer, distributor, dealer or rebuilder.

(b) Vehicles leased by dealers, except vehicles rented or leased to vehicle salesmen in the course of their employment.

(c) Vehicles which are privately owned by the owners, officers or employees of the manufacturer, distributor, dealer or rebuilder.

(d) Vehicles which are being used for personal reasons by a person who is not licensed by the Department or otherwise exempted in subsection 1.

(e) Vehicles which have been given or assigned to persons who work for a manufacturer, distributor, dealer or rebuilder for services performed.

(f) *Vehicles purchased by a manufacturer, distributor, dealer or rebuilder for personal use which the manufacturer, distributor, dealer or rebuilder is not licensed or authorized to resell.*

Sec. 19. ~~[NRS 482.321 is hereby amended to read as follows:~~

~~482.321 1. [Any dealer in vehicles] 1. A dealer in this State qualified to receive a dealer's license is entitled to register in his name not more than 12 vehicles of the make or type he is licensed and authorized to sell upon payment of the fees for registration and licensing as provided in this chapter. The dealer is not subject to the payment of governmental services taxes on the registrations of those vehicles.~~

~~2. Vehicles so registered are subject to the payment of governmental services taxes by the purchaser from the dealer at the time of their transfer to the purchaser.~~

~~3. The transferee of the vehicle is required to pay the fees for registration and governmental services taxes before he is entitled to a transfer of the registration and title in his name. The transferee shall apply for registration as provided in NRS 482.215.~~

~~4. Registrations issued pursuant to this section are valid from January 1 to December 31 of each calendar year.~~

~~5. Special plates issued to a dealer are transferable until a maximum of 12 vehicles have been registered to the dealer pursuant to this section.~~

~~6. This section does not apply to work or service vehicles.] (Deleted by amendment.)~~

Sec. 20. NRS 482.322 is hereby amended to read as follows:

482.322 1. Except as otherwise provided in *subsection 2 and* NRS 482.3225, a person shall not engage in the activities of a new vehicle dealer, used vehicle dealer, manufacturer, distributor or rebuilder in this State until he has been issued:

(a) A new vehicle dealer's, used vehicle dealer's, manufacturer's, distributor's, rebuilder's or lessor's license certificate or similar license or permit by every city within whose corporate limits he maintains an established place of business and by every county in which he maintains an established place of business outside the corporate limits of a city; and

(b) A license by the Department. The Department shall not issue a license to the person until he has been issued all certificates, licenses and permits required by paragraph (a).

2. *A person licensed as a dealer pursuant to this chapter shall not engage in the activities of a new vehicle dealer until he has provided the Department with satisfactory proof that he is authorized by a manufacturer to display and offer for sale vehicles produced or distributed by that manufacturer.*

3. A vehicle dealer's, manufacturer's or rebuilder's license issued pursuant to this chapter does not permit a person to engage in the business of a new or used mobile home dealer, manufacturer or rebuilder.

~~{3-}~~ 4. The Department shall investigate any applicant for a dealer's, manufacturer's, distributor's, rebuilder's or lessor's license certificate or license and complete an investigation report on a form provided by the Department.

5. *A person who violates subsection 1 or 2 is guilty of:*

(a) For a first offense, a misdemeanor.

(b) For a second offense, a gross misdemeanor.

(c) For a third and any subsequent offense, a category D felony and shall be punished as provided in NRS 193.130.

Sec. 21. NRS 482.3255 is hereby amended to read as follows:

482.3255 Evidence of unfitness of an applicant or a licensee for purposes of denial or revocation of a license may consist of, but is not limited to:

1. Failure to discharge a lienholder on a vehicle within 30 days after it is traded to his dealership.

2. Being the former holder of or being a partner, officer, director, owner or manager involved in management decisions of a dealership which held a license issued pursuant to NRS 482.325 which was revoked for cause and never reissued or was suspended upon terms which were never fulfilled.

3. Defrauding or attempting to defraud the State or a political subdivision of any taxes or fees in connection with the sale or transfer of a vehicle.

4. Forging the signature of the registered or legal owner of a vehicle on a certificate of title.

5. Purchasing, selling, otherwise disposing of or having in his possession any vehicle which he knows, or a reasonable person should know, is stolen or otherwise illegally appropriated.

6. Willfully failing to deliver to a purchaser or his lienholder a certificate of title to a vehicle he has sold.

7. Refusing to allow an agent of the Department to inspect, during normal business hours, all books, records and files of the dealership which are maintained within the State.

8. Any fraud which includes, but is not limited to:

(a) Misrepresentation in any manner, whether intentional or grossly negligent, of a material fact.

(b) An intentional failure to disclose a material fact.

9. Willful failure to comply with any regulation adopted by the Department.

10. *Knowingly submitting or causing to be submitted any false, forged or otherwise fraudulent document to the Department to obtain a lien, title, salvage title or certificate of ownership or any duplicate thereof for a vehicle.*

11. *Knowingly causing or allowing a false, forged or otherwise fraudulent document to be maintained as a record of his business.*

12. *Violating the provisions of NRS 482.555 which involved the sale or transfer of interest in a vehicle.*

Sec. 22. NRS 482.326 is hereby amended to read as follows:

482.326 1. A vehicle dealer shall inform the Department of the location of each place at which he conducts any business, and the name under which he does business at each location.

2. If a vehicle dealer does business at more than one location, he shall designate one location in each county in which he does business as his principal place of business for that county and one name as the principal name of his business. He shall designate all of his other business locations not otherwise designated as a principal place of business pursuant to this subsection as branches.

3. *A vehicle dealer who maintains a principal place of business and one or more businesses designated as branches may operate those branches under the authority of the license issued by the Department to the principal place of business under the following conditions:*

(a) The principal and branch locations are owned and operated by the same principal or group of principals listed on the records of the Department for the principal place of business;

(b) The sales activities conducted at a branch location are the same as those authorized by the Department at the principal place of business;

(c) The principal place of business and each branch location are located within the same county;

(d) The principal place of business and each branch location maintains the appropriate city or county license;

(e) The closest boundary of a branch location is not more than 500 feet from the principal place of business;

(f) The business sign displayed at each branch location meets the requirements of NRS 482.332 and is essentially the same in name, style and design as that of the principal place of business;

(g) Sales transactions originating at a branch location must be culminated, and the records of the transaction maintained, at the principal place of business; and

(h) The vehicle dealer shall provide all documentation which the Department deems necessary to ensure that each business location is operated in accordance with the provisions of this chapter and all other

applicable laws and regulations established for the operation of a vehicle sales business in this State.

4. If a vehicle dealer changes the name or location of any of his established places of business, he shall ~~[-, not later than 10 days after making the change, submit to the Department such documents relating to the change as the Department by regulation requires.]~~ *not conduct business as a vehicle dealer under the new name or at the new location until he has been issued a license for the new name or location from the Department.*

Sec. 22.5. NRS 482.330 is hereby amended to read as follows:

482.330 1. Upon issuance of a dealer's, distributor's, manufacturer's or rebuilder's license certificate pursuant to NRS 482.322, the Department shall furnish to the manufacturer, distributor, dealer or rebuilder one or more registration certificates and special plates for use on the vehicles described in the provisions of NRS 482.320. Each plate must have displayed upon it the identification number which is assigned to the dealer, distributor, manufacturer or rebuilder, and may at the discretion of the Department have a different letter or symbol on each plate or pair of plates. The manufacturer's, distributor's, dealer's or rebuilder's license plates may be used interchangeably on that vehicle.

2. The Department shall issue to each dealer a reasonable number of registration certificates and license plates.

3. The Department shall provide by regulation for the issuance of special license plates to dealers or rebuilders and for the number of those plates for use on vehicles loaned by those dealers or rebuilders to:

- (a) Customers in the course of business.
- (b) The State of Nevada.
- (c) The Nevada System of Higher Education.
- (d) A school district.
- (e) A county, city or town.
- (f) An organization that is exempt from taxation pursuant to the provisions of section 501(c)(3) of the Internal Revenue Code.

➡ The regulations must prescribe what use may be made of the plates and the persons who may operate a motor vehicle with those plates.

4. Notwithstanding the provisions of subsection 3, a dealer may use not more than six special plates from the total number of plates issued pursuant to this section for personal use by the dealer or a member of his immediate family.

Sec. 23. NRS 482.332 is hereby amended to read as follows:

482.332 ~~[-A-]~~

1. *Except as otherwise provided in subsection 2, at each of his established places of business, each vehicle dealer, manufacturer, lessor, rebuilder and ~~each~~ broker shall permanently affix a sign containing the name of his business in lettering of sufficient size to be clearly legible from the center of the nearest street or roadway, except that the lettering must be at least 8 inches high and formed by lines that are at least 1-inch wide.*

2. Upon approval of the Director, and in accordance with all other city and county ordinances, a vehicle dealer or a long-term or short-term lessor may be exempted from the requirements of subsection 1 if:

(a) His established place of business or branch location is located within the confines of another business;

(b) The other place of business is the primary business at that location; and

(c) The primary business is not licensed pursuant to any provision of this chapter.

Sec. 24. NRS 482.3331 is hereby amended to read as follows:

482.3331 The Director shall, before renewing any license issued pursuant to NRS 482.333, consider ~~the~~:

1. The number and types of complaints ~~[, if any,]~~ received against a ~~licensed~~ broker by the Department ~~[,]~~; and

2. Any administrative fines imposed upon the broker by the Department pursuant to NRS 482.554 and 482.565,

➔ and may require the broker to provide a good and sufficient bond in the amount set forth in subsection 1 of NRS 482.345 for each category of vehicle for which services are provided at each place of business and in each county in which the broker is licensed to do business.

Sec. 25. NRS 482.3333 is hereby amended to read as follows:

482.3333 1. Before a person may be licensed as a broker, he must procure and file with the Department a good and sufficient bond in the amount of ~~[\$50,000]~~ \$100,000 with a corporate surety thereon licensed to do business within the State of Nevada, approved as to form by the Attorney General, and conditioned that the applicant shall conduct his business as a broker without breaching a consumer contract or engaging in a deceptive trade practice, fraud or fraudulent representation, and without violation of the provisions of this chapter.

2. ~~The Department may [, by agreement with any broker who has been licensed as a broker for 5 years or more, allow a reduction in the amount of the bond if his business has been conducted satisfactorily for the preceding 5 years, but no bond may be in an amount less than \$5,000.~~

~~2.]~~ allow a broker who provides services for more than one category of vehicle described in subsection 1 of NRS 482.345 at a principal place of business or at any branch location within the same county as the principal place of business to provide a good and sufficient bond for a single category of vehicle and may consider that single bond sufficient coverage to include all other categories of vehicles.

3. The bond must be continuous in form, and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

~~[3.]~~ 4. The undertaking on the bond includes any breach of a consumer contract, deceptive trade practice, fraud, fraudulent representation or violation of any of the provisions of this chapter by any employee of the

licensed broker who acts on behalf of the broker and within the scope of his employment.

~~[4.]~~ 5. The bond must provide that any person injured by the action of the broker or his employee in violation of any provision of this chapter may ~~bring an action on the bond~~ apply to the Director, for good cause shown, for compensation from the bond. The surety issuing the bond shall appoint the Secretary of State as its agent to accept service of notice or process for the surety in any action upon the bond brought in a court of competent jurisdiction or brought before the Director.

6. If a person is injured by the actions of a broker or his employee, the person may:

(a) Bring and maintain an action in any court of competent jurisdiction. If the court enters:

(1) A judgment on the merits against the broker or his employee, the judgment is binding on the surety.

(2) A judgment other than on the merits against the broker or his employee, including, without limitation, a default judgment, the judgment is binding on the surety only if the surety was given notice and an opportunity to defend at least 20 days before the date on which the judgment was entered against the broker or his employee.

(b) Apply to the Director, for good cause shown, for compensation from the bond. The Director may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

(c) Settle the matter with the broker or his employee. If such a settlement is made, the settlement must be reduced to writing, signed by both parties and acknowledged before any person authorized to take acknowledgments in this State, and submitted to the Director with a request for compensation from the bond. If the Director determines that the settlement was reached in good faith and there is no evidence of collusion or fraud between the parties in reaching the settlement, the surety shall make the payment to the injured person in the amount agreed upon in the settlement.

7. Any judgment entered by a court against a broker or his employee may be executed through a writ of attachment, garnishment, execution or other legal process, or the person in whose favor the judgment was entered may apply to the Director for compensation from the bond of the broker or his employee.

Sec. 26. NRS 482.3335 is hereby amended to read as follows:

482.3335 1. No broker may intentionally cause to be published, displayed or circulated any advertisement, including any listing in a telephone directory, in which he is represented to be any type of vehicle dealer, unless he has obtained the appropriate license from the Department as provided in this chapter.

2. A broker may not display, or use in conjunction with any form of advertisement, a vehicle he is not licensed to sell.

Sec. 27. NRS 482.345 is hereby amended to read as follows:

482.345 1. ~~[Except as otherwise provided in subsection 8, before]~~
~~Before~~ any dealer's license, dealer's plate, special dealer's plate, rebuilder's
 license or rebuilder's plate, distributor's license or distributor's plate or
 manufacturer's license or manufacturer's plate is furnished to a manufacturer,
 distributor, dealer or rebuilder as provided in this chapter, the Department
 shall require that the applicant make an application for such a license and
 plate upon a form to be furnished by the Department, and the applicant shall
 furnish such information as the Department requires, including proof that the
 applicant has an established place of business in this State, ~~[and also, except~~
~~as otherwise provided in subsection 2,]~~ procure and file with the Department
 a good and sufficient bond ~~[in the amount of \$50,000]~~ with a corporate surety
 thereon, duly licensed to do business within the State of Nevada, approved as
 to form by the Attorney General, and conditioned that the applicant *or any*
employee who acts on his behalf within the scope of his employment shall
 conduct his business as a dealer, distributor, manufacturer or rebuilder
 without breaching a consumer contract or engaging in a deceptive trade
 practice, fraud or fraudulent representation, and without violation of the
 provisions of this chapter. ~~[The Department may, by agreement with any~~
~~dealer, distributor, manufacturer or rebuilder who has been in business for~~
~~5 years or more, allow a reduction in the amount of the bond of the dealer, if~~
~~his business has been conducted satisfactorily for the preceding 5 years, but~~
~~no bond may be in an amount less than \$5,000.~~

~~2.—A]~~ *The bond must be:*

(a) *For a manufacturer, distributor, rebuilder or dealer who manufactures,*
distributes or sells ~~[only motoreycles, horse trailers, tent trailers, utility~~
~~trailers or trailers designed to carry boats shall file a bond as required by~~
~~subsection 1 in the amount of \$5,000 regardless of the length of time he has~~
~~been in business.] motorcycles, \$50,000.~~

(b) *For a manufacturer, distributor, rebuilder or dealer who sells vehicles*
other than motorcycles, trailers or travel trailers, \$100,000.

(c) *For a manufacturer, distributor, rebuilder or dealer who sells travel*
trailers or other dual purpose trailers that include living quarters in their
design, \$100,000.

(d) *For a manufacturer, distributor, rebuilder or dealer who sells horse*
trailers designed without living quarters or special purpose trailers with an
unladen weight of 3,501 pounds or more, \$50,000.

(e) *For a manufacturer, distributor, rebuilder or dealer who sells utility*
trailers or other special use trailers with an unladen weight of 3,500 pounds
or less or trailers designed to carry boats, \$10,000.

2. *The Department may allow a manufacturer, distributor, rebuilder or*
dealer who sells more than one category of vehicle as described in
subsection 1 at a principal place of business or at any branch location within
the same county as the principal place of business to provide a good and
sufficient bond for a single category of vehicle and may consider that single
bond sufficient coverage to include all other categories of vehicles.

3. The bond must be continuous in form, and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

4. The undertaking on the bond includes any breach of a consumer contract, deceptive trade practice, fraud, fraudulent representation or violation of any of the provisions of this chapter by the representative of any licensed distributor or the salesman of any licensed dealer, manufacturer or rebuilder who acts for the dealer, distributor, manufacturer or rebuilder on his behalf and within the scope of the employment of the representative or the salesman.

5. The bond must provide that any person injured by the action of the dealer, distributor, rebuilder, manufacturer, representative or salesman in violation of any provisions of this chapter may apply to the Director, for good cause shown , ~~{and after notice and opportunity for hearing,}~~ for compensation from the bond. The surety issuing the bond shall appoint the Secretary of State as its agent to accept service of notice or process for the surety in any action upon the bond brought in a court of competent jurisdiction or brought before the Director.

6. If a person is injured by the actions of a dealer, distributor, rebuilder, manufacturer, representative or salesman, the person may:

(a) Bring and maintain an action in any court of competent jurisdiction. If the court enters:

(1) A judgment on the merits against the dealer, distributor, rebuilder, manufacturer, representative or salesman, the judgment is binding on the surety.

(2) A judgment other than on the merits against the dealer, distributor, rebuilder, manufacturer, representative or salesman, including, without limitation, a default judgment, the judgment is binding on the surety only if the surety was given notice and an opportunity to defend at least 20 days before the date on which the judgment was entered against the dealer, distributor, rebuilder, manufacturer, representative or salesman.

(b) Apply to the Director, for good cause shown , ~~{and after notice and opportunity for hearing,}~~ for compensation from the bond. The Director may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

(c) Settle the matter with the dealer, distributor, rebuilder, manufacturer, representative or salesman. If such a settlement is made, the settlement must be reduced to writing, signed by both parties and acknowledged before any person authorized to take acknowledgments in this State, and submitted to the Director with a request for compensation from the bond. If ~~{after notice and opportunity for a hearing,}~~ the Director determines that the settlement was reached in good faith and there is no evidence of collusion or fraud between the parties in reaching the settlement, the surety shall make the payment to the injured person in the amount agreed upon in the settlement.

7. Any judgment entered by a court against a dealer, distributor, rebuilder, manufacturer, representative or salesman may be executed through

a writ of attachment, garnishment, execution or other legal process, or the person in whose favor the judgment was entered may apply to the Director for compensation from the bond of the dealer, distributor, rebuilder, manufacturer, representative or salesman.

8. The ~~provisions of this section do not apply to a manufacturer without an established place of business in this State.~~ *Department shall not issue a license or plate pursuant to subsection 1 to a manufacturer, distributor, rebuilder or dealer who does not have and maintain an established place of business in this State.*

Sec. 28. NRS 482.350 is hereby amended to read as follows:

482.350 1. A new vehicle dealer's license shall not be furnished to any dealer in new vehicles, trailers or semitrailers unless the dealer first furnishes the Department an instrument executed by or on behalf of the manufacturer certifying that he is an authorized franchised dealer for the make or makes of vehicle concerned. New vehicle dealers are authorized to sell at retail only those new vehicles for which they are certified as franchised dealers by the manufacturer.

2. In addition to selling used vehicles, a used vehicle dealer may:

(a) Sell at wholesale a new vehicle ~~to a new or used~~ *taken in trade or acquired as a result of a ~~retail~~ sales contract ~~with~~ to a new vehicle dealer ~~[- and] who is licensed and authorized to sell that make of vehicle;~~*

(b) Sell at wholesale a new vehicle through a wholesale vehicle auction provided that the wholesale vehicle auctioneer:

(1) Does not take an ownership interest in the vehicle; and

(2) Auctions the vehicle to a vehicle dealer who is licensed and authorized to sell that make of vehicle or to an automobile wrecker who is licensed in this State or any other state; or

(c) Sell a new vehicle on consignment from a person not licensed as a vehicle dealer ~~[-]~~ , rebuilder or a long-term or short-term lessor.

Sec. 29. NRS 482.352 is hereby amended to read as follows:

482.352 1. The Department may deny the issuance of, suspend or revoke a license to engage in the activities of a manufacturer, distributor, rebuilder or dealer in new or used vehicles or to engage in the leasing of vehicles *in this State* upon any of the following grounds:

(a) Failure of the applicant to have an established place of business in this State.

(b) Conviction of a felony in the State of Nevada or any other state, territory or nation.

(c) Material misstatement in the application.

(d) Evidence of unfitness of the applicant or licensee.

(e) Willful failure to comply with any of the provisions of the motor vehicle laws of the State of Nevada or the directives of the Director. For the purpose of this paragraph, failure to comply with the directives of the Director advising the licensee of his noncompliance with any provision of the motor vehicle laws of this State or regulations of the Department, within

10 days after receipt of the directive, is prima facie evidence of willful failure to comply with the directive.

(f) Failure or refusal to furnish and keep in force any bond.

(g) Failure on the part of the licensee to maintain a fixed place of business in this State.

(h) Failure or refusal by a licensee to pay or otherwise discharge any final judgment against the licensee rendered and entered against him, arising out of the misrepresentation of any vehicle, trailer or semitrailer, or out of any fraud committed in connection with the sale of any vehicle, trailer or semitrailer.

(i) Failure of the licensee to maintain any other license or bond required by any political subdivision of this State.

(j) Allowing an unlicensed salesman to sell or lease any vehicle ~~[-]~~ *or to act in the capacity of a salesman as defined in this chapter.*

(k) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 3.

(l) Engaging in a deceptive trade practice relating to the purchase and sale or lease of a vehicle.

2. The Director may deny the issuance of a license to an applicant or revoke a license already issued if the Department is satisfied that the applicant or licensee is not entitled thereto.

3. 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 activities of a manufacturer, distributor, dealer or rebuilder, 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 the authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to the authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 482.318 to 482.363105, inclusive, or to determine the suitability of an applicant or a licensee for such licensure.

4. *The Department may adopt regulations establishing additional criteria that may be used to deny, suspend, revoke or refuse to renew a license issued pursuant to this chapter.*

Sec. 30. NRS 482.353 is hereby amended to read as follows:

482.353 1. ~~[The]~~ *Except as otherwise provided in subsection 5, an applicant or licensee may, within 30 days after receipt of the notice of denial, suspension or revocation, petition the Director in writing for a hearing.*

2. Subject to the further requirements of subsection 3, the Director shall make written findings of fact and conclusions and grant or finally deny the application or revoke the license within 15 days after the hearing unless by interim order he extends the time to 30 days after the hearing. If the license

has been temporarily suspended, the suspension expires ~~no~~ *not* later than 15 days after the hearing.

3. If the Director finds that the action is necessary in the public interest, upon notice to the licensee, he may temporarily suspend or refuse to renew the license certificate issued to a manufacturer, distributor, dealer, lessor, *broker* or rebuilder and the special plates issued to a manufacturer, distributor, lessor, rebuilder, *broker* or dealer for a period not to exceed 30 days. A hearing must be held, and a final decision rendered, within 30 days after notice of the temporary suspension.

4. The Director may issue subpoenas for the attendance of witnesses and the production of evidence.

5. *The provisions of this section do not apply to an applicant for a temporary permit to engage in the activity of a salesman.*

Sec. 31. NRS 482.362 is hereby amended to read as follows:

482.362 1. A person shall not engage in the activity of a salesman of vehicles, trailers or semitrailers, *or act in the capacity of a salesman as defined in this chapter*, in the State of Nevada without first having received a license *or temporary permit* from the Department. Before issuing a license *or temporary permit* to engage in the activity of a salesman, the Department shall require:

(a) An application, signed and verified by the applicant, stating that the applicant is to engage in the activity of a salesman, his residence address, his social security number and the name and address of his employer.

(b) Proof of the employment of the applicant by a licensed and bonded vehicle dealer, trailer or semitrailer dealer, lessor or rebuilder at the time the application is filed.

(c) A statement as to whether any previous application of the applicant has been denied or license revoked.

(d) Payment of a nonrefundable license fee of \$75. The license expires on December 31 of each calendar year and may be renewed annually upon the payment of a fee of \$40.

(e) For initial licensure, the applicant to submit a complete set of his fingerprints and written permission authorizing the Department 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.

(f) Any other information the Department deems necessary.

2. The Department may issue a 60-day temporary ~~license~~ *permit* to an applicant who has submitted an application and paid the required fee.

3. A license to act as a salesman of vehicles, trailers or semitrailers, *or to act in the capacity of a salesman as defined in this chapter*, issued pursuant to this chapter does not permit a person to engage in the business of selling mobile homes.

4. An application for a salesman's license may be denied and a salesman's license may be suspended or revoked upon the following grounds:

(a) Failure of the applicant to establish by proof satisfactory to the Department that he is employed by a licensed and bonded vehicle dealer, trailer dealer or semitrailer dealer, lessor or rebuilder.

(b) Conviction of a felony.

(c) Conviction of a gross misdemeanor.

(d) Conviction of a misdemeanor for violation of any of the provisions of this chapter.

(e) Falsification of the application.

(f) *Evidence of unfitness as described in NRS 482.3255.*

(g) *Failure of the applicant to provide any information deemed necessary by the Department to process the application.*

(h) Any reason determined by the Director to be in the best interests of the public.

5. ~~{A}~~ *Except where a dealer, lessor or rebuilder has multiple branches licensed under NRS 482.326, a salesman of vehicles shall not engage in any sales activity , or act in any other capacity as a salesman as defined in this chapter, other than for the account of or for and in behalf of a single employer, at a specified place of business of that employer, who must be a licensed dealer, lessor or rebuilder.*

6. If an application for a salesman's license has been denied, the applicant may reapply not less than 6 months after the denial.

7. A salesman's license must be posted in a conspicuous place on the premises of the dealer, lessor or rebuilder for whom the salesman is licensed to sell vehicles.

8. If a *licensed* salesman ceases to be employed by a licensed and bonded dealer, lessor or rebuilder, his license to act as a salesman is automatically suspended and his right to act as a salesman thereupon immediately ceases, and he shall not engage in the activity of a salesman until he has paid the Department a transfer fee of \$20 and submitted a certificate of employment indicating he has been reemployed by a licensed and bonded dealer, lessor or rebuilder, and has thereafter presented a current temporary ~~license~~ permit or a new salesman's license to his employer.

9. If a licensed salesman changes his residential address, he shall submit a written notice of the change to the Department within 10 days after the change occurs.

10. *If a person who holds a temporary permit to act as a salesman ceases to be employed by a licensed and bonded dealer, lessor or rebuilder, his permit to act as a salesman is automatically suspended, his right to act as a salesman thereupon immediately ceases and his application for licensure must be denied unless he has paid the Department a transfer fee of \$20 and submitted a certificate of employment indicating he has been reemployed by a licensed and bonded dealer, lessor or rebuilder, and has thereafter presented a current temporary permit or a new salesman's license to his employer.*

11. A licensed dealer, lessor or rebuilder who employs a licensed salesman shall notify the Department of the termination of his employment within 10 days following the date of termination by forwarding the salesman's license to the Department.

~~{11.}~~ 12. Any person who fails to comply with the provisions of this section is guilty of a misdemeanor except as otherwise provided in NRS 482.555.

Sec. 32. NRS 482.362 is hereby amended to read as follows:

482.362 1. A person shall not engage in the activity of a salesman of vehicles, trailers or semitrailers , *or act in the capacity of a salesman as defined by this chapter*, in the State of Nevada without first having received a license *or temporary permit* from the Department. Before issuing a license *or temporary permit* to engage in the activity of a salesman, the Department shall require:

(a) An application, signed and verified by the applicant, stating that the applicant is to engage in the activity of a salesman, his residence address, and the name and address of his employer.

(b) Proof of the employment of the applicant by a licensed and bonded vehicle dealer, trailer or semitrailer dealer, lessor or rebuilder at the time the application is filed.

(c) A statement as to whether any previous application of the applicant has been denied or license revoked.

(d) Payment of a nonrefundable license fee of \$75. The license expires on December 31 of each calendar year and may be renewed annually upon the payment of a fee of \$40.

(e) For initial licensure, the applicant to submit a complete set of his fingerprints and written permission authorizing the Department 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.

(f) Any other information the Department deems necessary.

2. The Department may issue a 60-day temporary ~~license~~ *permit* to an applicant who has submitted an application and paid the required fee.

3. A license to act as a salesman of vehicles, trailers or semitrailers , *or to act in the capacity of a salesman as defined in this chapter*, issued pursuant to this chapter does not permit a person to engage in the business of selling mobile homes.

4. An application for a salesman's license may be denied and a salesman's license may be suspended or revoked upon the following grounds:

(a) Failure of the applicant to establish by proof satisfactory to the Department that he is employed by a licensed and bonded vehicle dealer, trailer dealer or semitrailer dealer, lessor or rebuilder.

(b) Conviction of a felony.

(c) Conviction of a gross misdemeanor.

(d) Conviction of a misdemeanor for violation of any of the provisions of this chapter.

- (e) Falsification of the application.
- (f) *Evidence of unfitness as described in NRS 482.3255.*
- (g) *Failure of the applicant to provide any information deemed necessary by the Department to process the application.*
- (h) Any reason determined by the Director to be in the best interests of the public.

5. ~~{A}~~ *Except where a dealer, lessor or rebuilder has multiple branches licensed under NRS 482.326, a salesman of vehicles shall not engage in any sales activity , or act in any other capacity as a salesman as defined in this chapter, other than for the account of or for and in behalf of a single employer, at a specified place of business of that employer, who must be a licensed dealer, lessor or rebuilder.*

6. If an application for a salesman's license has been denied, the applicant may reapply not less than 6 months after the denial.

7. A salesman's license must be posted in a conspicuous place on the premises of the dealer, lessor or rebuilder for whom the salesman is licensed to sell vehicles.

8. If a *licensed* salesman ceases to be employed by a licensed and bonded dealer, lessor or rebuilder, his license to act as a salesman is automatically suspended and his right to act as a salesman thereupon immediately ceases, and he shall not engage in the activity of a salesman until he has paid the Department a transfer fee of \$20 and submitted a certificate of employment indicating he has been reemployed by a licensed and bonded dealer, lessor or rebuilder, and has thereafter presented a current temporary ~~{license}~~ permit or a new salesman's license to his employer.

9. If a licensed salesman changes his residential address, he shall submit a written notice of the change to the Department within 10 days.

10. *If a person who holds a temporary permit to act as a salesman ceases to be employed by a licensed and bonded dealer, lessor or rebuilder, his permit to act as a salesman is automatically suspended, his right to act as a salesman thereupon immediately ceases and his application for licensure must be denied unless he has paid the Department a transfer fee of \$20 and submitted a certificate of employment indicating he has been reemployed by a licensed and bonded dealer, lessor or rebuilder, and has thereafter presented a current temporary permit or a new salesman's license to his employer.*

11. A licensed dealer, lessor or rebuilder who employs a licensed salesman shall notify the Department of the termination of his employment within 10 days following the date of termination by forwarding the salesman's license to the Department.

~~{11}~~ 12. Any person who fails to comply with the provisions of this section is guilty of a misdemeanor except as otherwise provided in NRS 482.555.

Sec. 33. NRS 482.423 is hereby amended to read as follows:

482.423 1. When a new vehicle is sold in this State for the first time, the seller shall complete and execute a manufacturer's certificate of origin or a manufacturer's statement of origin and, unless the vehicle is sold to a *dealer who is licensed [dealer,] to sell the vehicle*, a dealer's report of sale. The dealer's report of sale must be in a form prescribed by the Department and must include:

- (a) A description of the vehicle;
- (b) The name and address of the seller; and
- (c) The name and address of the buyer.

2. If, in connection with the sale, a security interest is taken or retained by the seller to secure all or part of the purchase price, or a security interest is taken by a person who gives value to enable the buyer to acquire rights in the vehicle, the name and address of the secured party or his assignee must be entered on the dealer's report of sale and on the manufacturer's certificate or statement of origin.

3. Unless an extension of time is granted by the Department, the seller shall:

- (a) Collect the fees set forth in NRS 482.429 for:
 - (1) A certificate of title for a vehicle registered in this State; and
 - (2) The processing of the dealer's report of sale; and
- (b) Within 20 days after the execution of the dealer's report of sale:
 - (1) Submit to the Department the original of the dealer's report of sale and the manufacturer's certificate or statement of origin; and
 - (2) Remit to the Department the fees collected pursuant to paragraph (a).

4. Upon entering into a contract *or other written agreement* for the sale of a new vehicle, the seller shall affix a temporary placard to the rear of the vehicle. Only one temporary placard may be issued for the vehicle. The temporary placard must:

- (a) Be in a form prescribed by the Department;
- (b) Be made of a material appropriate for use on the exterior of a vehicle;
- (c) Be free from foreign materials and clearly visible from the rear of the vehicle; and
- (d) Include the date of its expiration.

5. Compliance with the requirements of subsection 4 permits the vehicle to be operated for a period not to exceed 30 days after the execution of *a written agreement to purchase or the contract [] of sale, whichever occurs first*. Upon the issuance of the certificate of registration and license plates for the vehicle or the expiration of the temporary placard, whichever occurs first, the buyer shall remove the temporary placard from the rear of the vehicle.

6. For the purposes of establishing compliance with the period required by paragraph (b) of subsection 3, the Department shall use the date imprinted or otherwise indicated on the dealer's report of sale as the beginning date of the 20-day period.

7. Upon execution of all ~~required~~ *the documents necessary* to complete the sale of a vehicle, *including, without limitation, the financial documents*, the dealer shall execute the dealer's report of sale and furnish a copy of the report to the buyer not less than 10 days before the expiration of the temporary placard.

8. *The provisions of this section do not apply to kit trailers.*

Sec. 34. NRS 482.4235 is hereby amended to read as follows:

482.4235 1. If a new vehicle is leased in this State by a long-term lessor, the long-term lessor shall complete and execute a manufacturer's certificate of origin or a manufacturer's statement of origin, and a long-term lessor's report of lease. Such a report must be in a form prescribed by the Department and must include:

- (a) A description of the vehicle; and
- (b) The names and addresses of the long-term lessor, long-term lessee and any person having a security interest in the vehicle.

2. Unless an extension of time is granted by the Department, the long-term lessor shall, within 20 days after the execution of the long-term lessor's report of lease:

- (a) Submit to the Department the original of the long-term lessor's report of lease and the manufacturer's certificate of origin or manufacturer's statement of origin; and
- (b) Collect and remit to the Department the fee set forth in NRS 482.429 for the processing of the long-term lessor's report of lease.

3. Upon entering into a lease *or written agreement to lease* for a new vehicle, the ~~seller~~ *long-term lessor* shall affix a temporary placard to the rear of the vehicle. Only one temporary placard may be issued for the vehicle. The temporary placard must:

- (a) Be in a form prescribed by the Department;
- (b) Be made of a material appropriate for use on the exterior of a vehicle;
- (c) Be free from foreign materials and clearly visible from the rear of the vehicle; and
- (d) Include the date of its expiration.

4. Compliance with the requirements of subsection 3 permits the vehicle to be operated for a period not to exceed 30 days after the execution of *a written agreement to lease or the lease* ~~[-]~~ *, whichever occurs first*. Upon issuance of the certificate of registration and license plates for the vehicle or the expiration of the temporary placard, whichever occurs first, the long-term lessee shall remove the temporary placard from the rear of the vehicle.

5. For the purposes of establishing compliance with the period required by subsection 2, the Department shall use the date imprinted or otherwise indicated on the long-term lessor's report of lease as the beginning date of the 20-day period.

6. Upon executing all *the documents necessary* to complete the lease of the vehicle, *including, without limitation, the financial documents*, the long-term lessor shall execute the long-term lessor's report of lease and

furnish a copy of the report to the long-term lessee not less than 10 days before the expiration of the temporary placard.

Sec. 35. NRS 482.424 is hereby amended to read as follows:

482.424 1. When a used or rebuilt vehicle is sold in this State to any person, except a licensed dealer, by a dealer, rebuilder, long-term lessor or short-term lessor, the seller shall complete and execute a dealer's or rebuilder's report of sale. The dealer's or rebuilder's report of sale must be in a form prescribed by the Department and must include:

- (a) A description of the vehicle, including whether it is a rebuilt vehicle;
- (b) The name and address of the seller; and
- (c) The name and address of the buyer.

2. If a security interest exists at the time of the sale, or if in connection with the sale a security interest is taken or retained by the seller to secure all or part of the purchase price, or a security interest is taken by a person who gives value to enable the buyer to acquire rights in the vehicle, the name and address of the secured party must be entered on the dealer's or rebuilder's report of sale.

3. Unless an extension of time is granted by the Department, the seller shall:

- (a) Collect the fees set forth in NRS 482.429 for:

- (1) A certificate of title for a vehicle registered in this State; and
 - (2) The processing of the dealer's or rebuilder's report of sale; and

(b) Within 30 days after the execution of the dealer's or rebuilder's report of sale:

(1) Submit to the Department the original of the dealer's or rebuilder's report of sale and the properly endorsed certificate of title previously issued for the vehicle; and

(2) Remit to the Department the fees collected pursuant to paragraph (a).

4. Upon entering into a contract *or other written agreement* for the sale of a used or rebuilt vehicle, the seller shall affix a temporary placard to the rear of the vehicle. Only one temporary placard may be issued for the vehicle. The temporary placard must:

- (a) Be in a form prescribed by the Department;
- (b) Be made of a material appropriate for use on the exterior of a vehicle;
- (c) Be free from foreign materials and clearly visible from the rear of the vehicle; and
- (d) Include the date of its expiration.

5. Compliance with the requirements of subsection 4 permits the vehicle to be operated for not more than 30 days after the execution of *a written agreement to purchase or the contract [] of sale, whichever occurs first*. Upon the issuance of the certificate of registration and license plates for the vehicle or the expiration of the temporary placard, whichever occurs first, the buyer shall remove the temporary placard from the rear of the vehicle.

6. To establish compliance with the period required by paragraph (b) of subsection 3, the Department shall use the date imprinted or otherwise indicated on the dealer's or rebuilder's report of sale as the beginning date of the 30-day period.

7. Upon executing all *the* documents necessary to complete the sale of the vehicle, *including, without limitation, the financial documents*, the seller shall execute the dealer's or rebuilder's report of sale and furnish a copy of the report to the buyer not less than 10 days before the expiration of the temporary placard.

Sec. 36. NRS 482.4245 is hereby amended to read as follows:

482.4245 1. If a used or rebuilt vehicle is leased in this State by a long-term lessor, the long-term lessor shall complete and execute a long-term lessor's report of lease. Such a report must be in a form prescribed by the Department and must include:

- (a) A description of the vehicle;
- (b) An indication as to whether the vehicle is a rebuilt vehicle; and
- (c) The names and addresses of the long-term lessor, long-term lessee and any person having a security interest in the vehicle.

2. Unless an extension of time is granted by the Department, the long-term lessor shall, within 30 days after the execution of the long-term lessor's report of lease:

(a) Submit to the Department the original of the long-term lessor's report of lease and the properly endorsed certificate of title previously issued for the vehicle; and

(b) Collect and remit to the Department the fee set forth in NRS 482.429 for the processing of the long-term lessor's report of lease.

3. Upon entering into a lease *or written agreement to lease* for a used or rebuilt vehicle, the ~~seller~~ *long-term lessor* shall affix a temporary placard to the rear of the vehicle. Only one temporary placard may be issued for the vehicle. The temporary placard must:

- (a) Be in a form prescribed by the Department;
- (b) Be made of a material appropriate for use on the exterior of a vehicle;
- (c) Be free from foreign materials and clearly visible from the rear of the vehicle; and
- (d) Include the date of its expiration.

4. Compliance with the requirements of subsection 3 permits the vehicle to be operated for a period not to exceed 30 days after the execution of *a written agreement to lease or the lease* ~~to~~, *whichever comes first*. Upon issuance of the certificate of registration and license plates for the vehicle or the expiration of the temporary placard, whichever occurs first, the long-term lessee shall remove the temporary placard from the rear of the vehicle.

5. To establish compliance with the period required by subsection 2, the Department shall use the date imprinted or otherwise indicated on the long-term lessor's report of lease as the beginning date of the 30-day period.

6. Upon executing all *the* documents necessary to complete the lease of the vehicle, *including, without limitation, the financial documents*, the long-term lessor shall execute the long-term lessor's report of lease and furnish a copy of the report to the long-term lessee not less than 10 days before the expiration of the temporary placard.

Sec. 37. NRS 482.436 is hereby amended to read as follows:

482.436 Any person is guilty of a gross misdemeanor who knowingly:

1. Makes *or causes to be made* any false entry on any certificate of origin or certificate of title;

2. Furnishes *or causes to be furnished* false information to the Department concerning any security interest; or

3. Fails to submit *or causes to not be submitted* the original of the dealer's or ~~rebuilder's~~ long-term lessor's report of sale ~~of~~ *or lease, together with the certificate of title or certificate of ownership issued for a used ~~or rebuilt~~ vehicle to the Department within the time prescribed in subsection 3 of NRS 482.424 ~~+~~ or, if a leased vehicle, subsection 2 of NRS 482.4235.*

Sec. 38. NRS 482.516 is hereby amended to read as follows:

482.516 1. Any provision in any security agreement for the sale *or lease* of a vehicle to the contrary notwithstanding, at least 10 days' written notice of intent to sell *or again lease* a repossessed vehicle must be given to all persons liable on the security agreement. The notice must be given in person or sent by mail directed to the address of the persons shown on the security agreement, unless such persons have notified the holder in writing of a different address.

2. The notice:

(a) Must set forth that there is a right to redeem the vehicle and the total amount required as of the date of the notice to redeem;

(b) May inform such persons of their privilege of reinstatement of the security agreement, if the holder extends such a privilege;

(c) Must give notice of the holder's intent to resell *or again lease* the vehicle at the expiration of 10 days from the date of giving or mailing the notice;

(d) Must disclose the place at which the vehicle will be returned to the buyer *or lessee* upon redemption or reinstatement; and

(e) Must designate the name and address of the person to whom payment must be made.

3. During the period provided under the notice, the person or persons liable on the security agreement may pay in full the indebtedness evidenced by the security agreement. Such persons are liable for any deficiency after sale *or lease* of the repossessed vehicle only if the notice prescribed by this section is given within 60 days after repossession and includes an itemization of the balance and of any costs or fees for delinquency, collection or repossession. In addition, the notice must either set forth the computation or estimate of the amount of any credit for unearned finance charges or

cancelled insurance as of the date of the notice or state that such a credit may be available against the amount due.

Sec. 39. NRS 482.545 is hereby amended to read as follows:

482.545 It is unlawful for any person to commit any of the following acts:

1. To operate, or for the owner thereof knowingly to permit the operation of, upon a highway any motor vehicle, trailer or semitrailer which is not registered or which does not have attached thereto and displayed thereon the number of plate or plates assigned thereto by the Department for the current period of registration or calendar year, subject to the exemption allowed in NRS 482.316 to 482.3175, inclusive, 482.320 to 482.363, inclusive, 482.385 to 482.3965, inclusive, and 482.420.

2. To display, cause or permit to be displayed or to have in possession any certificate of registration, license plate, certificate of title, *temporary placard, movement permit* or other document of title knowing it to be fictitious or to have been cancelled, revoked, suspended or altered.

3. To lend to, or knowingly permit the use of by, one not entitled thereto any registration card, ~~for~~ plate, *temporary placard or movement permit* issued to the person so lending or permitting the use thereof.

4. To fail or to refuse to surrender to the Department, upon demand, any registration card or plate which has been suspended, cancelled or revoked as provided in this chapter.

5. To use a false or fictitious name or address in any application for the registration of any vehicle or for any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in an application. A violation of this subsection is a gross misdemeanor.

6. Knowingly to operate a vehicle which:

- (a) Has an altered identification number or mark; or
- (b) Contains a part which has an altered identification number or mark.

Sec. 40. NRS 482.555 is hereby amended to read as follows:

482.555 In addition to any other penalty provided by this chapter:

1. It is a gross misdemeanor for any person knowingly to falsify:

(a) A dealer's or rebuilder's report of sale, as described in NRS 482.423 and 482.424; ~~for~~

(b) An application or document to obtain any ~~for~~

~~(1) License;~~

~~(2) Permit; or~~

~~(3) Certificate of title;~~

~~for~~ *license, permit, certificate of title or vehicle registration* issued under the provisions of this chapter ~~for~~; or

(c) *An application or document to obtain a salvage title or nonrepairable vehicle certificate as defined in chapter 487 of NRS.*

2. It is a misdemeanor for any person to violate any of the provisions of this chapter unless such violation is by this section or other provision of this

chapter or other law of this State declared to be a gross misdemeanor or a felony.

Sec. 41. Chapter 483 of NRS is hereby amended by adding thereto the provisions set forth as sections 42 and 43 of this act.

Sec. 42. 1. *A school for training drivers or a third-party certifier provided for by regulation shall ensure that each vehicle used for training drivers and operated on a highway is inspected annually.*

2. *The school for training drivers or the third-party certifier shall provide to the Department, within 30 days of the inspection or by December 31 of each calendar year, whichever comes first, the results of the inspection regarding the safety and road worthiness of the vehicles inspected pursuant to subsection 1.*

3. *The Department shall adopt regulations setting forth:*

(a) *The persons qualified to conduct the inspection; and*

(b) *The standards with which the inspection must comply.*

4. *The owner of the school for training drivers or the third-party certifier shall maintain a copy of the inspection at his principal place of business for 3 years after the inspection is completed.*

Sec. 43. 1. *The Department may impose an administrative fine, not to exceed \$2,500, for a violation of any provision of NRS 483.700 to 483.780, inclusive, and section 42 of this act, or any rule, regulation or order adopted or issued pursuant thereto. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.*

2. *All administrative fines collected by the Department pursuant to subsection 1 must be deposited with the State Treasurer to the credit of the State Highway Fund.*

3. *In addition to any other remedy provided by NRS 483.700 to 483.780, inclusive, and section 42 of this act, the Department may compel compliance with any provision of NRS 483.700 to 483.780, inclusive, and section 42 of this act, and any rule, regulation or order adopted or issued pursuant thereto, by injunction or other appropriate remedy and the Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.*

Sec. 44. NRS 483.730 is hereby amended to read as follows:

483.730 1. The Department shall issue a license to operate a school for training drivers or to act as an instructor for such a school, if the Department is satisfied that the applicant has met the qualifications required by NRS 483.700 to 483.780, inclusive ~~[]~~, and sections 42 and 43 of this act.

2. The license is valid for ~~[5 years]~~ 1 year after the date of issuance, unless cancelled, suspended or revoked by the Department and, except as otherwise provided in subsection 3, may be renewed subject to the same conditions as the original license, except that an operator of or instructor for a school for training drivers is not required to comply with the provisions of NRS 483.7205 for the renewal of his license.

3. Except as otherwise provided in subsection 4, the Department may renew the license of an instructor of a school for training drivers if, when he submits his application for the renewal of his license, he provides evidence satisfactory to the Department that, during the period of the license, he completed training of a type and in an amount prescribed by the Department by regulation.

4. The provisions of subsection 3 do not apply to an instructor who provides instruction solely to applicants for commercial drivers' licenses.

Sec. 45. NRS 484.6061 is hereby amended to read as follows:

484.6061 1. It is unlawful for any person to *display or* advertise for sale, to sell, to use, to install or to have installed any device which causes an odometer to register any mileage other than the true mileage driven.

2. For purposes of this section, the true mileage driven is that mileage traveled by the vehicle, as registered by the odometer, within the manufacturer's designed tolerance for such odometer.

Sec. 46. NRS 484.6063 is hereby amended to read as follows:

484.6063 It is unlawful for any person, with the intent to defraud, to operate , *or to cause or allow to be operated*, a motor vehicle on any highway of this State knowing that the odometer of such vehicle is disconnected or nonfunctional ~~[-]~~ *or has been altered to no longer reflect the true mileage driven*.

Sec. 47. NRS 484.6067 is hereby amended to read as follows:

484.6067 1. A person is guilty of a ~~[gross misdemeanor]~~ *category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$10,000, or by both fine and imprisonment*, if he knowingly sells a motor vehicle whose odometer has been altered for the purpose of fraud.

2. Except as *otherwise* provided in subsection 1, any person who violates the provisions of NRS 484.606 to 484.6069, inclusive, is guilty of a misdemeanor.

Sec. 48. NRS 484.6068 is hereby amended to read as follows:

484.6068 Any person who, with an intent to defraud, violates any requirement imposed by NRS 484.606 to 484.6069, inclusive, is liable to the person harmed by such act or acts, in an amount equal to the sum of:

1. Three times the amount of actual damages sustained by the person harmed or ~~[\$1,500,]~~ \$2,500, whichever is greater; and

2. If the action of the person harmed is successful in enforcing the liability imposed by subsection 1, the costs of the action together with reasonable attorney's fees, as determined by the court.

Sec. 49. Chapter 487 of NRS is hereby amended by adding thereto the provisions set forth as sections 50, 51 and 52 of this act.

Sec. 50. *As used in NRS 487.050 to 487.200, inclusive, and sections 50, 51 and 52 of this act, unless the context otherwise requires, "automobile wrecker" or "wrecker" means a person who obtains a license to dismantle,*

scrap, process or wreck any vehicle, including, without limitation, wrecked, salvage, nonrepairable, abandoned and junk vehicles, which includes, without limitation, removing or selling an individual part or parts of such a vehicle or crushing, shredding or dismantling such a vehicle to be disposed of as scrap metal.

Sec. 51. Evidence of unfitness of an applicant or a licensee for purposes of denial, suspension or revocation of or failure to renew a license as an automobile wrecker, operator of a salvage pool, garageman or owner of a body shop may consist of, but is not limited to, the applicant or licensee:

1. Purchasing, selling, dismantling, disposing of or having in his possession any vehicle which he knows, or a reasonable person should know, is stolen or otherwise illegally appropriated.

2. Being the former holder of or being a partner, officer, director, owner or manager involved in management decisions of an automobile wrecker which held a license issued pursuant to chapter 487 of NRS which was revoked for cause and never reissued or was suspended upon terms which were never fulfilled.

3. Defrauding or attempting to defraud the State or a political subdivision of any taxes or fees in connection with the sale or transfer of a vehicle.

4. Forging the signature of the registered or legal owner of an abandoned vehicle on any document that releases the interest of the owner in the abandoned vehicle.

5. Forging the signature of the registered or legal owner of a vehicle on a certificate of title or other document to obtain or transfer ownership in that vehicle.

6. Willfully failing to deliver to a purchaser a salvage title to a vehicle that the applicant or licensee has sold.

7. Refusing to allow an agent of the Department to inspect, during normal business hours, all books, records and files of the dealership which are maintained within the State.

8. Committing any fraud which includes, without limitation:

(a) Misrepresenting in any manner, whether intentional or grossly negligent, a material fact.

(b) Intentionally failing to disclose a material fact.

9. Willfully failing to comply with any regulation adopted by the Department.

Sec. 52. 1. Whenever an entire salvage vehicle is sold to any person by a licensed automobile wrecker, the automobile wrecker shall deliver a legal salvage title to the buyer.

2. A salvage vehicle which is partially dismantled is deemed an entire salvage vehicle if all the following components are included and identifiable as coming from the same vehicle:

(a) The cowl assembly;

(b) The floor pan assembly;

(c) *The passenger compartment;*

(d) *The rear clip assembly;*

(e) *The roof assembly; and*

(f) *One of the following:*

(1) *A conventional frame coupled with one additional major component;*

(2) *If a unibody, the complete front inner structure; or*

(3) *If a truck, the truck cab assembly.*

3. *A vehicle that does not include any one of the components listed in subsection 2 is deemed a part of an entire salvage vehicle.*

4. *As used in this section, "entire salvage vehicle" means a vehicle which is in one piece and includes all of its components as listed in subsection 2.*

Sec. 53. NRS 487.160 is hereby amended to read as follows:

487.160 1. The Department ~~[after notice and hearing,]~~ may suspend, revoke or refuse to renew a license of an automobile wrecker upon determining that the automobile wrecker:

(a) Is not lawfully entitled thereto;

(b) Has made, or knowingly or negligently permitted, any illegal use of that license;

(c) Has failed to return a salvage title to the state agency when and as required of him by NRS 487.710 to 487.890, inclusive; or

(d) Has failed to surrender to the state agency certificates of title for vehicles before beginning to dismantle or wreck the vehicles.

2. The applicant or licensee may, within 30 days after receipt of the notice of refusal, suspension or revocation, petition the Department in writing for a hearing.

3. Hearings under this section and appeals therefrom must be conducted in the manner prescribed in NRS 482.353 and 482.354.

4. The Department may suspend, revoke or refuse to renew a license of an automobile wrecker, or *may* deny a license to an applicant therefor, *for any reason determined by the Director to be in the best interest of the public, or* if the licensee or applicant:

(a) Does not have or maintain an established place of business in this State.

(b) Made a material misstatement in any application.

(c) Willfully fails to comply with any applicable provision of this chapter.

(d) Fails to furnish and keep in force any bond required by NRS 487.050 to 487.200, inclusive.

(e) Fails to discharge any final judgment entered against him when the judgment arises out of any misrepresentation of a vehicle, trailer or semitrailer.

(f) Fails to maintain any license or bond required by a political subdivision of this State.

(g) Has been convicted of a felony.

(h) Has been convicted of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter.

(i) Fails or refuses to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 7.

(j) *Knowingly submits or causes to be submitted any false, forged or otherwise fraudulent document to the Department to obtain a lien, title, salvage title or certificate of ownership, or any duplicate thereof, for a vehicle.*

(k) *Knowingly causes or allows a false, forged or otherwise fraudulent document to be maintained as a record of his business.*

(l) *Interferes with or refuses to allow an agent of the Department or any peace officer access to and, upon demand, the opportunity to examine any record held in conjunction with the operation of the wrecker.*

(m) *Displays evidence of unfitness for a license pursuant to section 51 of this act.*

5. If an application for a license as an automobile wrecker is denied, the applicant may not submit another application for at least 6 months after the date of the denial.

6. The Department may refuse to review a subsequent application for licensing submitted by any person who violates any provision of this chapter.

7. 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 any financial obligation related to the business of dismantling, scrapping, processing or wrecking of vehicles, 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 487.050 to 487.200, inclusive, *and sections 50, 51 and 52 of this act* or to determine the suitability of an applicant or a licensee for such licensure.

8. For the purposes of this section, failure to adhere to the directives of the state agency advising the licensee of his noncompliance with any provision of NRS 487.050 to 487.200, inclusive, *and sections 50, 51 and 52 of this act* or NRS 487.710 to 487.890, inclusive, or regulations of the state agency, within 10 days after the receipt of those directives, is prima facie evidence of willful failure to comply.

Sec. 54. NRS 487.170 is hereby amended to read as follows:

487.170 Every licensed automobile wrecker, rebuilder or scrap processor shall maintain a record of all vehicles *acquired and processed, junked, dismantled* ~~for wrecked, which contains the name and~~, *wrecked, sold as a part or parts or disposed of as scrap metal. The records must be open to*

inspection during business hours by any peace officer or investigator of the state agency. Every vehicle record must contain:

1. *The name, address and original signature of the person from whom the vehicle was ~~purchase or acquired and the date thereof, the~~ acquired, until such time as the original signature is submitted to the Department, at which time the record must contain a duplicate of the signature;*

2. *The date the vehicle was acquired;*

3. *How the vehicle was acquired by the wrecker, rebuilder or scrap processor;*

4. *The registration number last assigned to the vehicle ; and ~~a~~*

5. *A brief description of the vehicle, including, insofar as the data may exist with respect to a given vehicle, the make, type, serial number and motor number, or any other number of the vehicle. ~~[The record must be open to inspection during business hours by any peace officer or investigator of the state agency.]~~*

Sec. 55. NRS 487.200 is hereby amended to read as follows:

487.200 Any person who violates any of the provisions of NRS 487.050 to 487.200, inclusive, *and sections 50, 51 and 52 of this act* is guilty of a misdemeanor.

Sec. 56. NRS 487.260 is hereby amended to read as follows:

487.260 1. If the vehicle is appraised at a value of more than \$500 , the state agency or political subdivision shall dispose of it as provided in NRS 487.270.

2. If the vehicle is appraised as a junk vehicle, the Department may issue a junk certificate to the automobile wrecker or tow operator who removed the vehicle.

3. An automobile wrecker who possesses a junk certificate for a junk vehicle may dismantle, scrap, crush or otherwise destroy the vehicle.

4. A vehicle for which a junk certificate has been issued may be sold to an automobile wrecker by the person to whom the junk certificate was issued by the seller's endorsement on the certificate. An automobile wrecker who purchases a vehicle for which a junk certificate has been issued *shall immediately affix his business name as purchaser to the first available space provided on the reverse side of the certificate. For the purposes of this subsection, such an automobile wrecker is the owner of the junk vehicle.*

5. *If insufficient space exists on the reverse side of a junk certificate to transfer the vehicle pursuant to subsection 4, a wrecker who purchases a junk vehicle for which a junk certificate has been previously issued shall, within 10 days after purchase, apply to the Department for a new junk certificate and surrender the original certificate.*

~~{5.}~~ 6. A person who sells, dismantles, scraps, crushes or otherwise destroys a junk vehicle shall maintain, for at least 2 years, a copy of the junk certificate and a record of the name and address of the person from whom the vehicle was acquired and the date thereof. He shall allow any peace officer or

any investigator employed by a state agency to inspect the records during business hours.

~~6-1~~ 7. As used in this section, "junk vehicle" means a vehicle, including component parts, which:

- (a) Has been discarded or abandoned;
- (b) Has been ruined, wrecked, dismantled or rendered inoperative;
- (c) Is unfit for further use in accordance with the original purpose for which it was constructed;
- (d) Is not registered with the Department or has not been reclaimed by the registered owner or a person having a security interest in the vehicle within 15 days after notification pursuant to NRS 487.250; and
- (e) Has value principally as scrap which does not exceed \$200.

Sec. 57. NRS 487.490 is hereby amended to read as follows:

487.490 1. The Department may refuse to issue a license or ~~after notice and hearing,~~ may suspend, revoke or refuse to renew a license of an operator of a salvage pool upon determining that the operator:

- (a) Is not lawfully entitled to the license;
- (b) Has made, or knowingly or negligently permitted, any illegal use of that license;
- (c) Made a material misstatement in any application;
- (d) Willfully fails to comply with any provision of NRS 487.400 to 487.510, inclusive;
- (e) Fails to discharge any final judgment entered against him when the judgment arises out of any misrepresentation regarding a vehicle;
- (f) Fails to maintain any license or bond required by a political subdivision of this State;
- (g) Has been convicted of a felony;
- (h) Has been convicted of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter; ~~or~~
- (i) Fails or refuses to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 6 ~~1~~; or
- (j) *Displays evidence of unfitness for a license pursuant to section 51 of this act.*

2. The applicant or licensee may, within 30 days after receipt of the notice of refusal to grant or renew or the suspension or revocation of a license, petition the Department in writing for a hearing.

3. Hearings under this section and appeals therefrom must be conducted in the manner prescribed in NRS 482.353 and 482.354.

4. If an application for a license as an operator of a salvage pool is denied, the applicant may not submit another application for at least 6 months after the date of the denial.

5. The Department may refuse to review a subsequent application for licensing submitted by any person who violates any provision of NRS 487.400 to 487.510, inclusive.

6. Upon the receipt of any report or complaint that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a salvage pool, 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 487.400 to 487.510, inclusive, or to determine the suitability of an applicant or a licensee for such licensure.

7. For the purposes of this section, the failure to adhere to the directives of the Department advising the licensee of his noncompliance with any provision of NRS 487.400 to 487.510, inclusive, or regulations of the Department, within 10 days after the receipt of those directives, is prima facie evidence of willful failure to comply.

Sec. 58. NRS 487.540 is hereby amended to read as follows:

487.540 1. "Garage" means a business establishment, sole proprietorship, firm, corporation, association or other legal entity that performs any of the following services on motor vehicles:

(a) Repair or replacement of the:

- (1) Engine;
- (2) Brake system;
- (3) Transmission system;
- (4) Drivetrain system;
- (5) Heating and air-conditioning system;
- (6) Cooling system; ~~for~~
- (7) Muffler and exhaust system;
- (8) *Electrical system;*
- (9) *Electrical charging system; or*
- (10) *Fuel injection or carburetion system;*

- (b) Engine tune up;
- (c) Diagnostic testing;
- (d) Alignment; or
- (e) Oil change and lubrication.

2. "Garage" does not include a business establishment, sole proprietorship, firm, corporation, association or other legal entity that does not perform services on motor vehicles for members of the general public.

Sec. 59. NRS 487.550 is hereby amended to read as follows:

487.550 "Motor vehicle" means:

1. A passenger car as defined in NRS 482.087;
2. A mini motor home as defined in NRS 482.066;
3. A motor home as defined in NRS 482.071;
4. A recreational vehicle as defined in NRS 482.101; ~~and~~

5. A motortruck as defined in NRS 482.073 if the gross weight of the vehicle is 10,000 pounds or less ~~[-]~~;

6. *A motorcycle as defined in NRS 482.070; and*

7. *A trimobile as defined in NRS 482.129.*

Sec. 60. NRS 487.563 is hereby amended to read as follows:

487.563 1. Each person who submits an application for registration pursuant to the provisions of NRS 487.560 must include in the application a written statement to the Department that specifies whether he agrees to submit to binding arbitration any claims against him arising out of a contract for repairs made by him to a motor vehicle. If the person fails to submit the statement to the Department or specifies in the statement that he does not agree to arbitrate those claims, the person shall file with the Department a bond in the amount of \$5,000, with a corporate surety for the bond that is licensed to do business in this State. The form of the bond must be approved by the Attorney General and be conditioned upon whether the applicant conducts his business as an owner or operator of a garage without fraud or fraudulent representation and in compliance with the provisions of NRS 487.035, 487.530 to 487.570, inclusive, and 597.480 to 597.590, inclusive.

2. The bond must be continuous in form and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

3. In lieu of a bond required to be filed pursuant to the provisions of subsection 1, a person may deposit with the Department, pursuant to the terms prescribed by the Department:

(a) A like amount of money or bonds of the United States or of the State of Nevada of an actual market value of not less than the amount fixed by the Department; or

(b) A savings certificate of a bank or savings and loan association located in this State, which must indicate an account of an amount equal to the amount of the bond that would otherwise be required pursuant to this section and that the amount is unavailable for withdrawal except upon order of the Department. Interest earned on the certificate accrues to the account of the applicant.

4. If a claim is arbitrated pursuant to the provisions of this section, the proceedings for arbitration must be conducted in accordance with the provisions of NRS 38.206 to 38.248, inclusive.

5. If a person:

(a) Submits the statement to the Department specifying that he agrees to arbitrate a claim pursuant to the provisions of subsection 1; and

(b) Fails to submit to binding arbitration any claim specified in that subsection,

→ the person asserting the claim may notify the Department of that fact. Upon receipt of the notice, the Department shall, after notice and hearing, revoke or refuse to renew the certificate of registration of the person who failed to submit the claim to arbitration.

6. If a person fails to comply with an order of a court that relates to the repair of a motor vehicle, *or fails to pay or otherwise discharge any final judgment rendered and entered against him or any court order issued and arising out of the repair of a motor vehicle in the operation of a garage*, the Department shall ~~[, after notice and hearing,]~~ revoke or refuse to renew the certificate of registration of the person who failed to comply with the order ~~[,]~~ *or satisfy the judgment.*

7. The Department may reinstate or renew a certificate of registration that is:

(a) Revoked pursuant to the provisions of subsection 5 if the person whose certificate of registration is revoked:

(1) Submits the claim to arbitration pursuant to the provisions of subsection 4 and notifies the Department of that fact; or

(2) Files a bond or makes a deposit with the Department pursuant to the provisions of this section.

(b) Revoked pursuant to the provisions of subsection 6 if the person whose certificate of registration is revoked complies with the order of the court.

8. *A garageman whose registration has been revoked pursuant to the provisions of subsection 6 shall furnish to the Department a bond in the amount specified in subsection 1 prior to reinstatement of his garage registration.*

Sec. 61. NRS 487.564 is hereby amended to read as follows:

487.564 1. The Department may refuse to issue a registration or ~~[, after notice and hearing,]~~ may suspend, revoke or refuse to renew a registration to operate a garage upon any of the following grounds:

(a) A false statement of a material fact in a certification for a salvage vehicle required pursuant to NRS 487.800.

(b) A false statement or certification for an inspection pursuant to NRS 487.800 which attests to the mechanical fitness or safety of a salvage vehicle.

(c) *Evidence of unfitness of the applicant or registrant pursuant to section 51 of this act.*

(d) *A violation of any regulation adopted by the Department governing the operation of a garage.*

(e) *A violation of any statute or regulation that constitutes fraud in conjunction with the repair of a motor vehicle or operation of a garage.*

2. *A person for whom a certificate of registration has been suspended or revoked pursuant to the provisions of this section, subsection 6 of NRS 487.563 or similar provisions of the laws of any other state or territory of the United States shall not be employed by, or in any manner affiliated with, the operation of a garage subject to registration in this State.*

3. As used in this section, "salvage vehicle" has the meaning ascribed to it in NRS 487.770.

Sec. 62. 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 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.

(j) A display of evidence of unfitness for a license pursuant to section 51 of this act.

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. 63. NRS 487.860 is hereby amended to read as follows:

487.860 1. Except with respect to a nonrepairable vehicle, a vehicle for which a salvage title has been issued may not subsequently be registered until it has been inspected by a garageman who operates a garage that is registered pursuant to NRS 487.560 , ~~or~~ by the owner of a body shop licensed pursuant to NRS 487.630 , *by a rebuilder licensed pursuant to NRS 482.325* or by ~~an~~ *a qualified* employee of such a garage , ~~or~~ body shop *or rebuilder*, and is certified to be in a safe mechanical condition and equipped with all safety equipment required by the manufacturer.

2. If a garageman ~~or~~ , *an owner of a body shop* ~~, or an~~ *or a rebuilder*, *or a qualified* employee thereof, who performs an inspection pursuant to subsection 1 finds the vehicle to be in a safe mechanical condition and equipped with all safety equipment required by the manufacturer, the garageman, *owner of a body shop, rebuilder or qualified* employee shall complete and sign a certificate of inspection, on a form prescribed by the state agency, attesting to the mechanical fitness and safety of the vehicle and to any mechanical or other work that was performed on the vehicle at the garage or body shop. The certificate of inspection must indicate that the motor vehicle has been repaired to the standards of the manufacturer and any safety equipment, including, without limitation, any occupant restraint devices, that were present in the vehicle at the time the vehicle was manufactured are present and operational to the specifications of the manufacturer.

Sec. 64. Chapter 108 of NRS is hereby amended by adding thereto the provisions set forth as sections 65 and 66 of this act.

Sec. 65. *Any person is guilty of a gross misdemeanor who knowingly:*

1. *Makes or causes to be made a false entry on any affidavit of lien sale or on any lien sale registration certificate for a motor vehicle;*

2. *Makes or causes to be made a false entry on a certificate of title as to ownership or any security interest that may exist in a motor vehicle;*

3. *Fails to disclose any information which would indicate that a vehicle sold or offered for sale is or should be considered a salvage or nonrepairable vehicle; or*

4. *Falsifies or causes to be falsified an application or other document submitted to the Department of Motor Vehicles to obtain:*

(a) *A certificate of title or ownership; or*

(b) *A salvage title or a certificate which indicates that the vehicle is nonrepairable as defined in chapter 487 of NRS.*

Sec. 66. *Except as otherwise provided in section 65 of this act, a person who violates any provision of NRS 108.265 to 108.360, inclusive, is guilty of a misdemeanor.*

Sec. 67. NRS 445B.775 is hereby amended to read as follows:

445B.775 The regulations adopted by the Commission pursuant to NRS 445B.770 must establish requirements by which the Department of Motor Vehicles may license:

1. Authorized inspection stations, including criteria by which any person may become qualified to inspect devices for the control of emissions for motor vehicles. The regulations adopted *by the Commission* pursuant to NRS 445B.770 must provide that a facility licensed as an authorized inspection station:

(a) Except as otherwise provided in paragraph (b), may not, unless specifically authorized by the Commission, install, repair, diagnose or adjust any component or system of a motor vehicle that affects exhaust emissions.

(b) May perform the following activities in connection with a motor vehicle:

(1) The changing of oil;

(2) The replacing of an oil filter, air filter, fuel filter, belt or hose; and

(3) The servicing of a fuel injection system using methods approved by the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

2. Authorized maintenance stations, including criteria by which any person may become qualified to install, repair and adjust devices for the control of emissions for motor vehicles.

3. Authorized stations, including criteria by which any person may become qualified to inspect, repair, adjust and install devices for the control of emissions for motor vehicles.

Sec. 68. NRS 445B.785 is hereby amended to read as follows:

445B.785 1. The Department of Motor Vehicles shall , *in cooperation with the Commission*, adopt regulations which:

(a) Prescribe requirements for licensing authorized inspection stations, authorized maintenance stations, authorized stations and fleet stations. The regulations adopted ~~[by the Department of Motor Vehicles]~~ pursuant to this paragraph must provide that a facility licensed as an authorized inspection station:

(1) Except as otherwise provided in subparagraph (2), may not, unless specifically authorized by the Commission, install, repair, diagnose or adjust any component or system of a motor vehicle that affects exhaust emissions.

(2) May perform the following activities in connection with a motor vehicle:

(I) The changing of oil;

(II) The replacing of an oil filter, air filter, fuel filter, belt or hose; and

(III) The servicing of a fuel injection system using methods approved by the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(b) Prescribe the manner in which authorized inspection stations, authorized stations and fleet stations inspect motor vehicles and issue evidence of compliance.

(c) Prescribe the diagnostic equipment necessary to perform the required inspection. The regulations must ensure that ~~[the]~~ :

(1) *The equipment complies with any applicable standards of the United States Environmental Protection Agency [] ; and*

(2) *Use of the equipment is specifically authorized by the Commission.*

(d) Provide for any fee, bond or insurance which is necessary to carry out the provisions of NRS 445B.700 to 445B.815, inclusive.

(e) Provide for the issuance of a pamphlet for distribution to owners of motor vehicles. The pamphlet must contain information explaining the reasons for and the methods of the inspections.

2. The Department of Motor Vehicles shall issue a copy of the regulations to each authorized inspection station, authorized maintenance station, authorized station and fleet station.

Sec. 69. NRS 445B.800 is hereby amended to read as follows:

445B.800 1. Subject to any applicable limitation of NRS 445B.700 to 445B.815, inclusive, and any regulation adopted pursuant thereto, no used motor vehicle which requires inspection pursuant to the regulations adopted by the Commission under NRS 445B.770 may be registered unless the application for registration is accompanied by evidence of compliance issued by any authorized inspection station, authorized station or fleet station certifying that the vehicle is equipped with devices for the control of pollution from motor vehicles required by federal regulation or such other requirements as the Commission may by regulation prescribe under the provisions of NRS 445B.700 to 445B.845, inclusive.

2. If:

(a) A seller of a used vehicle is required to complete a dealer's report of sale pursuant to the provisions of NRS 482.424; or

(b) A long-term lessor of a used vehicle is required to complete a long-term lessor's report of lease pursuant to the provisions of NRS 482.4245,

➡ the seller or long-term lessor shall also provide the buyer or long-term lessee with any evidence of compliance required pursuant to subsection 1 [], *and shall deliver that evidence of compliance to a used vehicle buyer together with the dealer's report of sale issued pursuant to NRS 482.424 or 482.4245, indicating that the used vehicle purchased or leased meets the engine emission standards for the year, make and model of the used vehicle as established by regulation pursuant to NRS 445B.770.*

3. *A seller or long-term lessor of a used vehicle is not entitled to a waiver of the provisions of subsection 2.*

4. The requirements of this section apply only:

(a) To passenger cars and light-duty motor vehicles which use diesel fuel and are based in a county whose population is 100,000 or more; and

(b) In counties where a program of inspecting and testing motor vehicles and systems for the control of emissions from motor vehicles has been implemented pursuant to NRS 445B.770.

Sec. 70. NRS 482.321 is hereby repealed.

Sec. 71. Any license plate issued pursuant to NRS 482.321 expires on the date of expiration for that plate or January 1, 2008, whichever comes first and may not be renewed thereafter.

~~[Sec. 70.]~~ Sec. 72. 1. This section and sections 1 to 6, inclusive, 8 to ~~[17,]~~ 16, inclusive, 17, 20 to 23, inclusive, 26, 28 to 31, inclusive, 33 to 41, inclusive, and 43 to 69, inclusive, of this act become effective on July 1, 2007.

2. Sections 7, ~~16.5,~~ 18, 19, 24, 25, 27, ~~and~~ 42, ~~70 and 71~~ of this act become effective on January 1, 2008.

3. Sections 17 and 31 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 of the support of one or more children,
 ➔ are repealed by the Congress of the United States.

4. Section 32 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a 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.

TEXT OF REPEALED SECTION

482.321 Registration of certain number of vehicles without payment of governmental services tax; payment of governmental services tax by purchaser; payment of fees for registration and governmental services tax by transferee; exceptions.

1. Any dealer in vehicles in this State qualified to receive a dealer's license is entitled to register in his name not more than 12 vehicles upon payment of the fees for registration and licensing as provided in this chapter. The dealer is not subject to the payment of governmental services taxes on the registrations of those vehicles.

2. Vehicles so registered are subject to the payment of governmental services taxes by the purchaser from the dealer at the time of their transfer to the purchaser.

3. The transferee of the vehicle is required to pay the fees for registration and governmental services taxes before he is entitled to a transfer of the registration and title in his name. The transferee shall apply for registration as provided in NRS 482.215.

4. This section does not apply to work or service vehicles.

Senator Heck moved the adoption of the amendment.

Remarks by Senator Heck.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 476.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 488.

"SUMMARY—Makes various changes concerning business practices. (BDR 54-1389)"

"AN ACT relating to business; providing for the licensing and regulation of exchange facilitators by the Division of Financial Institutions of the Department of Business and Industry; ~~providing for the licensing and regulation of payroll service providers by the Division;~~ authorizing the Division to charge and collect fees in certain circumstances; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Under existing law, payroll service providers are not regulated. Section 1 of this bill requires the Division to adopt regulations to provide for the licensing, bonding and regulation of payroll service providers. This section authorizes the Division to charge fees and impose administrative fines pursuant to those regulations, and provides a criminal penalty for violations.]~~

Under existing law, the Real Estate Division of the Department of Business and Industry regulates the activities of qualified intermediaries. (NRS 645.606-645.6085) This bill transfers regulatory and licensing authority concerning qualified intermediaries from the Real Estate Division to the Division of Financial Institutions of the Department of Business and Industry.

Section 42 of this bill renames the entities to be regulated and licensed as "exchange facilitators," and expands ~~those provisions~~ the scope of this term to include ~~certain qualified trustees, qualified escrow holders,~~ both qualified intermediaries and exchange accommodation titleholders.

Sections 3-21, 42, ~~and~~ 43 and 47-50 of this bill regulate the activities of exchange facilitators and include provisions concerning: (1) applications for and renewals of a license as an exchange facilitator; (2) certain bonds ~~for other forms of surety~~ and insurance policies that must be maintained by a licensee; (3) the handling of money held in accounts for clients; (4) the management of a licensee that is not a natural person; and (5) notice that must be provided to clients and to the Division in certain circumstances. Section 21 sets forth the fees which the Division is required to charge and collect relating to applications for and renewals of a license.

Sections 22-38 of this bill govern disciplinary proceedings against an exchange facilitator. Section 22 authorizes the Commissioner of the Division of Financial Institutions to investigate an exchange facilitator. Section 25 authorizes the Commissioner to require a licensee to pay an administrative fine of not more than ~~[\$5,000]~~ *\$200 per day* or to suspend, revoke, deny the renewal of or place conditions upon his license, or impose any combination of such actions in certain circumstances. Under section 38, a person who is not licensed pursuant to the provisions of this bill who acts as an exchange facilitator or holds himself out as a licensee is guilty of a misdemeanor and is further liable to the Division for a civil penalty of \$200 per day for each day that the violation continues.

Section 39 of this bill authorizes the Division to issue a reciprocal license to a person who is licensed as an exchange facilitator in another state in certain circumstances. *Section 39.5 of this bill authorizes the Division to issue a special license to a financial institution that maintains an office in this State in certain circumstances.*

Section 40 of this bill requires the Commissioner to conduct an audit of all exchange facilitators at least every 5 years and to conduct on a random basis additional partial audits of any licensee who has a history of violations of the provisions of this bill.

Upon passage and approval of this bill, the Legislative Counsel will transfer NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act from chapter 645 of NRS to a new chapter of NRS. Upon passage and approval of this bill, the Legislative Counsel will transfer all the regulations created under NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act to the chapter of NAC that corresponds with the new chapter of NRS in which NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act are transferred.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[Title 54 of NRS is hereby amended by adding thereto a new chapter to read as follows:~~

~~1. The Division shall adopt such regulations as necessary to provide for the licensing, bonding and regulation of payroll service providers.~~

~~2. The Division may charge such fees as necessary to carry out the provisions of this chapter and the regulations adopted pursuant thereto.~~

~~3. Any person who violates any provision of this chapter or the regulations adopted pursuant thereto is guilty of a gross misdemeanor.~~

~~4. In addition to any other remedy or penalty, the Division may impose an administrative fine of not more than \$10,000 upon a person who violates any provision of this chapter or the regulations adopted pursuant thereto.~~

~~5. As used in this section:~~

~~(a) "Division" means the Division of Financial Institutions of the Department of Business and Industry.~~

~~(b) "Payroll service provider" means any person who provides or offers to provide any payroll service, including, without limitation, calculating payroll and tax obligations for employees, printing and delivering of checks to employees and providing management reports. (Deleted by amendment.)~~

Sec. 2. Chapter 645 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 40, inclusive, of this act.

Sec. 3. *As used in NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 645.606 and sections 4 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. "Commissioner" means the Commissioner of Financial Institutions.

Sec. 5. "Division" means the Division of Financial Institutions of the Department of Business and Industry.

Sec. 6. "Financial institution" means any bank, savings and loan association, savings bank or trust company, including an affiliate, subsidiary or holding company of these, doing business in this State that is federally insured and organized under, or supervised pursuant to, the laws of the United States or of any state.

Sec. 7. "Licensee" means a person licensed as an exchange facilitator pursuant to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act.

Sec. 8. Except as otherwise provided in NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act, the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act, do not apply to:

1. Any bank, thrift company, credit union, trust company, savings and loan association, including an affiliate, subsidiary or holding company of these, or any mortgage or farm loan association licensed under the laws of this State or of the United States, with reference to property it has acquired for development, for the convenient transaction of its business, or as a result of foreclosure of property encumbered in good faith as security for a loan or other obligation it has originated or holds.

2. A corporation which, through its regular officers who receive no special compensation for it, performs any of those acts with reference to the property of the corporation.

3. The services rendered by an attorney at law in the performance of his duties as an attorney at law.

4. A receiver, trustee in bankruptcy, administrator or executor, or any other person doing any of the acts specified in NRS 645.030 under the jurisdiction of any court.

5. A trustee acting under a trust agreement, deed of trust or will, or the regular salaried employees thereof.

6. The purchase, sale or locating of mining claims or options thereon or interests therein.

7. *The State of Nevada or a political subdivision thereof.*

Sec. 9. 1. A license issued pursuant to NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act is nontransferable.

2. The business of a licensee must not be sold or ownership of the business transferred before the prospective buyer or owner has complied with the provisions of section 43 of this act.

Sec. 10. 1. *A licensee may establish one or more branch offices in this State.*

2. *A licensee who establishes one or more branch offices in this State shall provide written notice to the Division of the establishment of any such branch office within 30 days after establishment of the branch office.*

Sec. 11. *A license issued pursuant to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act must be conspicuously displayed in the primary place of business of the licensee, and a copy of the license must be conspicuously displayed in each branch office of the licensee.*

Sec. 12. 1. *The business of a licensee, if the licensee is not a natural person, must be conducted under the direct management of an officer or employee of the licensee designated by the licensee as an exchange facilitator officer, who is licensed pursuant to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act and who is:*

(a) An attorney or certified public accountant admitted to practice in any state or territory of the United States;

(b) A certified exchange specialist certified by the Federation of Exchange Accommodators or its successor; or

(c) A person who has been actively conducting the business of an exchange facilitator or who has equivalent experience, as determined by the Division, for the 3 years immediately preceding his designation as an exchange facilitator officer.

2. *A licensee shall immediately notify the Division in writing of:*

(a) The designation of any exchange facilitator officer, setting forth the experience and qualifications of the exchange facilitator officer and other such information as may be required by the Division; and

(b) The termination of the employment of any exchange facilitator officer.

Sec. 13. 1. *Each licensee is a fiduciary of all money, property, other considerations and instruments received by the licensee ~~from~~ from the client.*

2. *Each licensee shall invest money related to a tax-deferred exchange of property in investments which meet the reasonable standards that are applicable to persons acting as fiduciaries in this State.*

Sec. 14. *Money held in any account for a client may not be withdrawn from the account without the written approval of the licensee and the client.*

Sec. 15. 1. *Except as otherwise provided in subsection 2 and section 17 of this act, a licensee shall maintain a policy of insurance covering liability for errors and omissions in an amount not less than*

\$250,000 executed by an insurer authorized to do business in this State and approved by the Division.

2. In lieu of such a policy of insurance, a licensee may deposit with the Division under such terms and conditions as the Division may prescribe, a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Division.

3. A licensee shall provide proof of the coverage required pursuant to this section, including, without limitation, the name and address of the insurer, to a client ~~for customer upon request.~~

4. The provisions of subsections 1 and 2 do not prohibit the licensee from maintaining a policy of insurance, deposits or other forms of security in excess of the amounts required by subsections 1 and 2.

5. Any person claiming against a policy of insurance or deposit required by this section may bring an action in a court of competent jurisdiction on the policy of insurance or deposit for damages to the extent covered by the policy. A person who brings an action on a policy or deposit shall notify the Division in writing upon filing the action.

6. Upon receiving a request from ~~for a person for whose benefit a policy of insurance or deposit is required,~~ a client of an exchange facilitator, the Division shall notify ~~him;~~ the client:

(a) That a policy of insurance is in effect or that a deposit has been made, and the amount of either; and

(b) If there is an action against the policy of insurance, of the title, court and case number of the action and the amount sought by the plaintiff.

7. If an insurer, or in the case of a deposit, the Division, wishes to make payment without awaiting action by a court, the amount of the policy or deposit must be reduced to the extent of any payment made by the insurer or the Division in good faith under the policy or deposit. Any payment must be based on written claims received by the insurer or the Division before any action is taken by a court.

8. Claims against a policy of insurance or deposit have equal priority, and if the policy or deposit is insufficient to pay all claims in full, they must be paid on a pro rata basis. Partial payment of claims is not full payment, and any claimant may bring an action against the exchange facilitator for the unpaid balance.

Sec. 16. A licensee shall provide written notice to the Division at least 30 days before the cancellation or withdrawal of any bond, policy of insurance or security required pursuant to NRS 645.608 or section 15 of this act. The Division shall suspend the license of a licensee upon notice that the licensee has cancelled or withdrawn any bond, policy of insurance or security required pursuant to NRS 645.608 or section 15 of this act.

Sec. 17. 1. If the Division determines that the ~~bonds or security required by~~ requirements of NRS 645.608 ~~for the insurance or security required by section 15 of this act~~ are not commercially ~~and reasonably available,~~ reasonable, the Division may waive or modify the requirements ~~of NRS 645.608 and section 15 of this act~~ for such time as the Division deems appropriate.

2. If the Division determines that the requirements of section 15 of this act are not commercially reasonable, the Division may waive or modify the requirements for such time as the Division deems appropriate.

Sec. 18. All ~~money deposited in escrow to be delivered upon the close of the escrow or upon any other contingency~~ exchange funds must be kept separate from money belonging to the licensee and must be deposited in a financial institution that is federally insured or insured by a private insurer approved pursuant to NRS 678.755 unless another financial institution has been designated in writing in the ~~instructions for the escrow~~ exchange agreement. The money when deposited must be designated as "trust funds" or "escrow accounts" or under some other appropriate name indicating that the money is not the money of the licensee.

Sec. 19. 1. ~~Money deposited in escrow is~~ Exchange funds are not subject to execution or attachment on any claim against the licensee.

2. A licensee shall not knowingly keep or cause to be kept any money in any bank, credit union or other financial institution under any name designating the money as belonging to the clients of any licensee, unless the money belongs to the client and was actually entrusted to the licensee by the client. ~~for deposit in escrow~~

Sec. 20. If a licensee fails to apply for a renewal of his license before the date of the expiration thereof, no license may be issued to him except upon another application for an original license, except that within 1 year of such expiration a renewal may be issued upon payment of a fee one and one-half times the amount otherwise required for renewal.

Sec. 21. The Division shall charge and collect not more than the following fees:

For filing and the investigation of an application for a license	\$500
For the issuance of a license.....	200
For annual renewal of a license	200
For issuance of a license for each branch office of a licensee	200
For annual renewal of a license for each branch office of a licensee	200
For issuance of a reciprocal license.....	150
For annual renewal of a reciprocal license	150
For reissuance of a license because of a change in the business address of the licensee	200

Sec. 22. *The Commissioner or the Division may investigate the actions of any exchange facilitator or any person who acts in any such capacity within this State.*

Sec. 23. *The Division shall maintain 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 the Division concerning an exchange facilitator.*

2. *All investigations instituted by the Commissioner or the Division in the first instance, upon or in connection with which any hearing has been held, or in which the licensee charged has made no defense.*

3. *Denials of applications made to the Division for licensing.*

Sec. 24. 1. *Except as otherwise provided in this section, a complaint filed with the Division alleging a violation of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.*

2. *A complaint or other document filed with 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. 25. 1. *The Commissioner may require a licensee to pay an administrative fine of not more than \$200 per day for each violation he commits or may suspend, revoke, deny the renewal of or place conditions upon his license, or impose any combination of those actions, at any time if:*

(a) *The licensee, by false or fraudulent representation, obtained a license.*

(b) *The licensee, whether or not acting as such, is found guilty of:*

(1) *Making any material misrepresentation.*

(2) *Making any false promises of a character likely to influence, persuade or induce.*

(c) *The licensee has failed, within a reasonable time, to account for or to remit any money which comes into his possession or under his control and which belongs to others.*

(d) *The licensee has engaged in any fraudulent act.*

(e) *The licensee or an owner, officer, director or employee of a licensee, is found guilty of any crime involving fraud, misrepresentation, deceit, embezzlement, misappropriation of money, robbery or theft.*

(f) *The licensee has failed to fulfill a contractual duty to deliver property or money, unless the failure to deliver such property or money is beyond the control of the licensee.*

(g) *A receiver or conservator is appointed to take control of the assets of a licensee.*

(h) *The licensee is dissolved.*

(i) *The licensee is bankrupt.*

(j) *The licensee fails to maintain, for review and audit by the Division, each agreement governed by the provisions of NRS 645.606 to 645.6085,*

inclusive, and sections 3 to 40, inclusive, of this act and entered into by the licensee.

(k) The licensee violates any provision of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act or any regulations adopted pursuant thereto.

2. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

3. In addition to any action set forth in subsection 1, the Division may, if it determines that an applicant for a license or a licensee has committed any of the acts set forth in subsection 1, after notice and a hearing required by law, require the applicant or licensee to pay the costs incurred by the Division to conduct any related investigation or hearing.

Sec. 26. 1. The Division shall not suspend the license of a licensee pursuant to section 25 of this act for more than 2 years.

2. After the revocation of any license by the Commissioner as provided in NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act, no new license may be issued to the same licensee within 2 years after the date of the revocation and then only provided that the licensee satisfies all the requirements for an original license.

Sec. 27. ~~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 the holder of a license as an exchange facilitator, the Division 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 Division 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 Division shall reinstate a license as an exchange facilitator 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 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.~~ (Deleted by amendment.)

Sec. 28. The expiration or revocation of a license by operation of law or by order or decision of the Division or a court of competent jurisdiction, or the voluntary surrender of a license does not:

1. Prohibit the Commissioner or the Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the exchange facilitator as authorized pursuant to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any penalty authorized pursuant to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act or the regulations adopted pursuant thereto against the exchange facilitator.

Sec. 29. 1. The procedure set forth in this section and section 30 of this act must be followed before the Division revokes, suspends or denies the renewal of any license issued pursuant to NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act.

2. Upon the initiation of a complaint by the Division, the matter must be set for a hearing by the Commissioner, who shall schedule a hearing before the Commissioner, and the licensee is entitled to be heard thereon in person or by counsel.

3. The Commissioner shall hold the hearing within 90 days after the filing of a complaint by the Division. The time of the hearing may be continued at the discretion of the Commissioner or upon the written request of the licensee or of the Division for good cause shown.

4. The licensee must be given at least 30 days' notice in writing by the Division of the date, time and place of the hearing together with a copy of the complaint and copies of all communications, reports, affidavits or depositions in possession of the Division relevant to the complaint. The Division may present evidence obtained after the notice only if the Division shows that the evidence was not available after diligent investigation before the time notice was given to the licensee and that the evidence was given or communicated to the licensee immediately after it was obtained.

5. Notice is complete upon delivery personally to the licensee or by mailing by certified mail to the last known address of the licensee.

Sec. 30. 1. The licensee shall file an answer to the charges with the Commissioner not later than 30 days after service of the notice and other documents described in subsection 4 of section 29 of this act. The answer must contain an admission or denial of the allegations contained in the complaint and any defenses upon which the licensee will rely. If no answer is filed within the time limit described in this subsection, the Division may, after notice to the licensee served in the manner authorized in subsection 5 of section 29 of this act, move for the entry of a default against the licensee.

2. The answer may be served by delivery to the Division, 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 may be maintained unless it is commenced by the giving of notice to the licensee within 3 years of the time 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 or the licensee is a party and which involves the conduct of the licensee in the transaction with which the charges are related, the running of the 3-year period with respect to the institution of a proceeding pursuant to NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act to suspend, revoke or deny the renewal of the license is suspended during the pendency of the action or proceeding.

Sec. 31. The hearing on the charges must be held at such time and place as the Commissioner prescribes. At the hearing, a stenographic transcript of the proceedings must be made if requested or required for judicial review. Any party to the proceedings desiring a transcript must be furnished with a copy upon payment to the Division of the reasonable cost of transcription.

Sec. 32. 1. The Commissioner shall have the power to administer oaths, certify to all official acts, and issue subpoenas for attendance of witnesses and the production of books and papers.

2. In any hearing or investigation in any part of the State, the process issued by the Commissioner shall extend to all parts of the State and may be served by any person authorized to serve process of courts of record. The person serving any such process shall receive such compensation as may be allowed by the Commissioner, not to exceed the fees prescribed by law for similar service, and such fees must be paid in the same manner as provided in section 33 of this act for the payment of the fees of witnesses.

Sec. 33. 1. Each witness who appears by order of the Commissioner is entitled to receive for his attendance the same fees and mileage allowed by law to a witness in civil cases, which amount must be paid by the party at whose request the witness is subpoenaed.

2. When any witness not otherwise required to attend is subpoenaed by the Commissioner, his fees and mileage must be paid by the Division.

Sec. 34. 1. The district court in and for the county in which any hearing may be held shall have the power to compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the Commissioner.

2. In case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, the Commissioner may report to the district court in and for the county in which the hearing is pending by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) That the witness has been subpoenaed in the manner prescribed in NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act; and

(c) That the witness has failed and refused to attend or produce the papers required by subpoena before the Commissioner in the cause or proceeding named in the subpoena, or has refused to answer questions propounded to him in the course of such hearing,

↪ and asking an order of the court compelling the witness to attend and testify or produce the books or papers before the Commissioner.

3. The court, upon petition of the Commissioner, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the Commissioner. A certified copy of the order shall be served upon the witness. If it shall appear to the court that the subpoena was regularly issued by the Commissioner, the court shall thereupon enter an order that the witness appear before the Commissioner at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order, the witness shall be dealt with as for contempt of court.

Sec. 35. 1. The Commissioner may, in any hearing before him, cause the depositions of witnesses residing within or without the State to be taken in the manner prescribed by the Nevada Rules of Civil Procedure for like depositions in civil actions in the district courts of this State, and to that end may compel the attendance of witnesses and the production of books and papers.

2. The clerk of the district court in and for the county in which any hearing may be held by the Commissioner shall, upon the application of the Commissioner, issue commissions to other states for the taking of evidence therein for use in any proceedings before the Commissioner.

3. Any party to any hearing before the Commissioner shall have the right to the attendance of witnesses in his behalf at such hearing or upon deposition as set forth in this section upon making request therefor to the Commissioner and designating the name and address of the person or persons sought to be subpoenaed.

Sec. 36. 1. The Commissioner shall render an informal decision on any complaint within 15 days after the final hearing thereon and shall give notice in writing of the ruling or decision to the applicant or licensee affected thereby within 60 days after the final hearing thereon by certified mail to the last known address of the person to whom the notice is sent.

2. If the ruling is adverse to the licensee, the Commissioner shall also state in the notice the date upon which the ruling or decision becomes effective, which date must not be less than 30 days after the date of the notice.

3. The decision of the Commissioner may not be stayed by any appeal in accordance with the provisions of section 37 of this act, unless the district court so orders upon motion of the licensee, notice to the Division of the motion and opportunity for the Division to be heard.

4. An appeal from a decision of the district court affirming the revocation or suspension of a license does not stay the order of the Commissioner unless the district or appellate court, in its discretion and

upon petition of the licensee, after notice and hearing orders such stay, and upon the filing of a bond for costs in the amount of \$1,000.

Sec. 37. 1. A ruling or decision of the Commissioner in any disciplinary action is final when in favor of the licensee.

2. If a ruling or decision is against the licensee, the licensee is entitled to judicial review of the ruling or decision in the manner provided by chapter 233B of NRS.

Sec. 38. 1. Any person who is not licensed pursuant to NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act who acts as an exchange facilitator in this State or holds himself out as a licensee and any licensee who commits an act set forth in subsection 1 of section 25 of this act is:

(a) Guilty of a misdemeanor.

(b) Liable to the Division for a civil penalty of \$200 per day for each day that the violation continues.

2. The Division may file an action for injunctive relief in the appropriate district court in this State to prevent the occurrence or continuance of that act.

Sec. 39. 1. A person who is licensed as an exchange facilitator in another state or territory of the United States and is not otherwise required to be licensed pursuant to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act may submit an application for a reciprocal license as an exchange facilitator pursuant to the provisions of this section. The Division shall issue a reciprocal license to the applicant if:

(a) The applicant is licensed in a jurisdiction that grants reciprocal licensing to a person licensed pursuant to NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act;

(b) The Division determines that the laws and regulations governing exchange facilitators of the jurisdiction in which the applicant is licensed are at least equivalent to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act;

(c) The applicant provides proof satisfactory to the Division that the applicant has complied with the requirements of NRS 645.608 and section 15 of this act;

(d) The applicant pays the fee required pursuant to section 21 of this act;

(e) The applicant designates the Division as its representative to receive service of process for matters arising in this State; and

(f) The applicant does not maintain an office in this State in connection with the conduct of the business of an exchange facilitator.

2. The Division shall:

(a) Examine the laws of each state to identify the jurisdictions that meet the requirements for recognition of a reciprocal license pursuant to this section; and

(b) Publish annually a list of the jurisdictions that meet the requirements of this section.

3. A license issued pursuant to this section must be renewed annually on or before July 1, by providing the information required by the Division for that purpose and paying the renewal fee prescribed by section 21 of this act.

Sec. 39.5. 1. A financial institution may obtain a special license pursuant to this section.

2. The Division shall issue a special license to a financial institution if the financial institution:

(a) Maintains an office in this State;

(b) Pays the fee required pursuant to section 21 of this act for the issuance of a license; and

(c) Complies with any other requirements set forth by regulations adopted by the Division.

3. A financial institution which obtains a special license pursuant to this section is exempt from the requirements of subsections 2 to 7, inclusive, of section 43 of this act except as otherwise required by regulations adopted by the Division.

4. A license issued pursuant to this section must be renewed annually on or before July 1, by providing the information required by the Division for that purpose and paying the renewal fee prescribed by section 21 of this act.

Sec. 40. 1. The Commissioner shall cause to be conducted at least every 5 years an audit of all licensees. The Commissioner shall cause to be conducted each year on a random basis additional partial audits of any licensee who has a history of violations of the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act, or the regulations adopted pursuant thereto, as determined by the Commissioner.

2. The Commissioner shall require the use of standard auditing procedures and shall establish a manual to describe the standard auditing procedures. The manual must include, without limitation:

(a) Specific audit objectives;

(b) Standards for documentation;

(c) Policies for supervisory review;

(d) Policies for the training of auditors;

(e) The format for the audit report; and

(f) Procedures for the presentation, distribution and retention of the audit report.

3. On or before March 1 of each year, the Commissioner ~~Administrator~~ shall make a report of each audit to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session.

Sec. 41. NRS 645.240 is hereby amended to read as follows:

645.240 ~~{1.}~~ The provisions of this chapter do not apply to, and the terms "real estate broker" and "real estate salesman" do not include, any:

~~{(a)}~~ 1. Owner or lessor of property, or any regular employee of such a person, who performs any of the acts mentioned in NRS 645.030, 645.040,

645.230 and 645.260, with respect to the property in the regular course of or as an incident to the management of or investment in the property. For the purposes of this paragraph, "management" means activities which tend to preserve or increase the income from the property by preserving the physical desirability of the property or maintaining high standards of service to tenants. The term does not include sales activities.

~~{{(b)}} 2.~~ Employee of a real estate broker while engaged in the collection of rent for or on behalf of the broker.

~~{{(c)}} 3.~~ Person while performing the duties of a property manager for a property, if the person maintains an office on the property and does not engage in property management with regard to any other property.

~~{{(d)}} 4.~~ Person while performing the duties of a property manager for a common-interest community governed by the provisions of chapter 116 of NRS, a condominium project governed by the provisions of chapter 117 of NRS, a time share governed by the provisions of chapter 119A of NRS, or a planned unit development governed by the provisions of chapter 278A of NRS, if the person is a member in good standing of, and, if applicable, holds a current certificate, registration or other similar form of recognition from, a nationally recognized organization or association for persons managing such properties that has been approved by the Real Estate Division by regulation.

~~{{(e)}} 5.~~ Person while performing the duties of a property manager for property used for residential 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.

~~[2.—Except as otherwise provided in NRS 645.606 to 645.6085, inclusive, the provisions of this chapter do not apply to:~~

~~(a) Any bank, thrift company, credit union, trust company, savings and loan association or any mortgage or farm loan association licensed under the laws of this State or of the United States, with reference to property it has acquired for development, for the convenient transaction of its business, or as a result of foreclosure of property encumbered in good faith as security for a loan or other obligation it has originated or holds.~~

~~(b) A corporation which, through its regular officers who receive no special compensation for it, performs any of those acts with reference to the property of the corporation.~~

~~(c) The services rendered by an attorney at law in the performance of his duties as an attorney at law.~~

~~(d) A receiver, trustee in bankruptcy, administrator or executor, or any other person doing any of the acts specified in NRS 645.030 under the jurisdiction of any court.~~

~~(e) A trustee acting under a trust agreement, deed of trust or will, or the regular salaried employees thereof.~~

~~(f) The purchase, sale or locating of mining claims or options thereon or interests therein.~~

~~(g) The State of Nevada or a political subdivision thereof.]~~

Sec. 42. NRS 645.606 is hereby amended to read as follows:

645.606 1. ~~As used in NRS 645.606 to 645.6085, inclusive,~~
~~["qualified intermediary" has the meaning ascribed to it] ~~and sections 3 to~~~~
~~40, inclusive, of this act, "exchange"~~ *"Exchange facilitator" means a person*
who, for compensation of any kind, acts as:

(a) *A qualified intermediary ~~trustee of a qualified trust or holder of a~~*
~~qualified escrow as those terms are~~ *as defined in 26 C.F.R.*
~~§ 1.1031(k)-1(g) ~~for~~ 1.1031(k)-1(g)(4) for a client whose relinquished~~
property is located in this State; or

(b) *An exchange accommodation titleholder, as that term is defined in*
Rev. Proc. 2000-37 ~~for~~, who holds title to property located in this State.

2. The term includes any person who ~~advertises~~:

(a) *Maintains an office in this State for the purpose of soliciting business*
as an exchange facilitator; or

(b) *Advertises or holds himself out as prepared to facilitate a tax-deferred*
exchange of property in this State by acting as the custodian of money or
other property.

3. The term does not include ~~a bank, credit union or other depository~~
~~institution, an escrow company, a title insurer, an agent licensed pursuant to~~
~~chapter 692A of NRS or its subsidiaries or employees.~~:

(a) *A taxpayer or disqualified person, as those terms are defined in*
26 C.F.R. § 1.1031(k)-1(k), who is seeking to qualify for nonrecognition
pursuant to 26 U.S.C. § 1031;

(b) *A financial institution when acting solely as a depository for funds*
used in a tax-deferred exchange of property; ~~for~~

(c) *A person who advertises for and teaches seminars or classes, or*
otherwise gives presentations to attorneys, accountants, real estate
professionals, tax professionals or other professionals with the primary
purpose of teaching such professionals about tax-deferred exchanges or
training such professionals to act as exchange facilitators ~~for~~ or

(d) *A qualified intermediary, as defined in 26 C.F.R. § 1.1031(k)-1(g)(4),*
who holds exchange funds received from the disposition of relinquished
property located outside this State.

Sec. 43. NRS 645.6065 is hereby amended to read as follows:

645.6065 1. Except as otherwise provided in NRS 645.607 ~~and~~
~~section 39 of this act,~~ a person shall not act as ~~a qualified intermediary~~ *an*
exchange facilitator unless he is ~~registered~~ licensed as such with the
Division. The Division may adopt such regulations as it deems necessary to
carry out the provisions of NRS 645.606 to 645.6085, inclusive ~~and~~, and
sections 3 to 40, inclusive, of this act, including, without limitation,
regulations prescribing amounts required for liquidity purposes.

2. To apply for ~~registration,~~ a license as an exchange facilitator, a
 person must pay the Division ~~a fee of \$100 and a fee to pay the costs of an~~
~~investigation of the person's background,~~ *the fee prescribed by section 21 of*
this act.

3. In addition to the requirements set forth in subsection 2, the person must submit to the Division:

(a) The following information on a form provided by the Division:

(1) The applicant's name, *business* address and telephone number;

(2) The name under which the applicant will hold the money or other property of a client;

(3) The names, residence and business addresses of all *shareholders or members who hold 10 percent or more of the voting stock of the applicant's business and all persons having an interest in the business as principals, partners, officers, trustees or directors, specifying the capacity and title of each; and*

(4) The length of time the applicant has been engaged in the business of acting as such an ~~intermediary; and~~ *exchange facilitator;*

(5) *A summary description of the business of the applicant;*

(6) *A list of any similar licenses obtained and maintained in other states or other jurisdiction and information regarding revocation of any such license;*

(7) *The tax identification number of the applicant; and*

(8) *A current certificate of good standing for the applicant from the state or other jurisdiction in which the applicant's business is formed; and*

(b) All information required to complete the application.

4. Each applicant must, as part of his application and at his own expense:

(a) Arrange to have ~~a complete set of his fingerprints~~ taken, by a law enforcement agency or other authorized entity acceptable to the Division ~~;~~, *a complete set of the applicant's fingerprints and the fingerprints of each person or officer who will be conducting the business of the applicant in this State and who has authority to transfer exchange money held by the applicant; and*

(b) Submit to the Division:

(1) A completed fingerprint card and written permission authorizing the Division to submit the ~~applicant's~~ fingerprints *described in paragraph (a)* to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the ~~applicant's~~ background *of each person whose fingerprints were taken* and to such other law enforcement agencies as the Division deems necessary; or

(2) Written verification, on a form prescribed by the Division, stating that the fingerprints ~~of the applicant~~ *described in paragraph (a)* were taken and directly forwarded electronically or by another means to the Central Repository and that ~~the applicant~~ *each person whose fingerprints were taken* has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the ~~applicant's~~ background *of each such person* and to such other law enforcement agencies as the Division deems necessary.

5. The Division may:

(a) Unless the ~~[applicant's]~~ fingerprints *described in paragraph (a) of subsection 4* are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 4, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary; and

(b) Request from each such agency any information regarding the ~~[applicant's]~~ background *of each person whose fingerprints were taken* as the Division deems necessary.

6. ~~[Registration]~~ *The Division shall approve an application submitted pursuant to this section within 45 days after the submission of the completed application, any additional information required by the Division and proof satisfactory to the Division that the applicant has complied with the provisions of NRS 645.608. Upon approval of an application, the Division shall issue a license to the applicant.*

7. *A license issued pursuant to ~~[this section]~~ NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act must be renewed ~~[each year]~~ annually on or before ~~[the date of the original registration]~~ July 1, by providing the information required by the Division for that purpose and paying a renewal fee ~~[of \$75.]~~ prescribed by section 21 of this act.*

Sec. 44. NRS 645.6068 is hereby amended to read as follows:

645.6068 1. In addition to any other requirements set forth in this chapter:

(a) A natural person who applies for the issuance of his ~~[registration as a qualified intermediary]~~ *license as an exchange facilitator* shall include the social security number of the applicant in the application submitted to the Division.

(b) A natural person who applies for the issuance or renewal of his ~~[registration as a qualified intermediary]~~ *license as an exchange facilitator* shall submit to the Division 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 the issuance or renewal of the ~~[registration;]~~ *license*; or

(b) A separate form prescribed by the Division.

3. An applicant may not be ~~[registered as a qualified intermediary]~~ *licensed as an exchange facilitator* by the Division if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public

agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the 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. 45. NRS 645.6068 is hereby amended to read as follows:

645.6068 1. In addition to any other requirements set forth in this chapter, a natural person who applies for the issuance or renewal of his ~~[registration as a qualified intermediary]~~ *license as an exchange facilitator* shall submit to the Division 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 the issuance or renewal of the ~~[registration]~~ *license*; or
(b) A separate form prescribed by the Division.

3. An applicant may not be ~~[registered as a qualified intermediary]~~ *licensed as an exchange facilitator* by the Division if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or
(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the 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. 46. NRS 645.6069 is hereby amended to read as follows:

645.6069 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 with the Division as a qualified intermediary]~~ *licensed as an exchange facilitator*, the Division shall deem the ~~[registration]~~ *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 Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person who is ~~registered as a qualified intermediary~~ *licensed as an exchange facilitator* stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate the ~~registration of a qualified intermediary~~ *license of an exchange facilitator* 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 whose ~~registration~~ *license* was suspended stating that the person whose ~~registration~~ *license* was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 47. NRS 645.607 is hereby amended to read as follows:

645.607 1. If the ~~intermediary~~ exchange facilitator is a corporation qualified to do business in this State, every officer, ~~and~~ director and exchange facilitator officer designated pursuant to section 12 of this act of the corporation who does business in this State must be ~~registered~~ licensed. No other employee is required to ~~register~~ be licensed.

2. If the exchange facilitator is not a natural person or a publicly traded company, each shareholder, member or other owner who owns 10 percent or more of the voting stock, shares or other ownership interest of the exchange facilitator must be licensed.

Sec. 48. NRS 645.6075 is hereby amended to read as follows:

645.6075 A ~~qualified intermediary shall inform~~ licensee shall:

1. Maintain a principal place of business in this State or maintain a registered agent in this State; ~~and~~

2. Immediately inform the Division in writing of any change in ~~his address or~~ the address or telephone number ~~of~~ of his principal place of business or his registered agent, and provide any other information required by the Division. ~~and~~; and

3. Immediately inform all clients if:

(a) There is a change in any of the officers, directors, employees or owners of the licensee who are required to obtain a license pursuant to section 12 or 47 of this act; or

(b) The licensee or any person described in paragraph (a) acquires a new license, has his license suspended or revoked or otherwise relinquishes, loses or has any other change in the status of his license.

Sec. 49. NRS 645.608 is hereby amended to read as follows:

645.608 1. Except as otherwise provided in section 17 of this act and subsection 2, ~~a qualified intermediary~~ an exchange facilitator shall ~~post with the Division a bond~~ maintain one or more fidelity bonds in ~~an~~ a total amount of not less than \$1,000,000 executed by ~~the~~ ~~intermediary~~ exchange facilitator as principal, and by a corporation qualified pursuant to the laws of this State as a surety. The bond must be payable to the State of

~~Nevada and conditioned upon the payment of all money due to the State and the clients of the~~ [intermediary]. The Division shall, by regulation, establish the minimum amount required for the bond. ~~[exchange facilitator.] an insurer authorized to do business in this State and approved by the Division.~~

2. In lieu of such a bond ~~[an intermediary]~~, a licensee may deposit with the Division under such terms and conditions as the Division may prescribe, a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Division.

3. A licensee shall provide proof of the bond required pursuant to this section, including, without limitation, the name and address of the ~~[surety]~~ insurer, to a client ~~for customer upon request.~~

4. Any person claiming against a bond or deposit required by this section may bring an action in a court of competent jurisdiction on the bond or deposit for damages to the extent covered by the bond ~~[.]~~ or deposit. A person who brings an action on a bond or deposit shall notify the Division in writing upon filing the action.

~~[4.]~~ 5. Upon receiving a request from a person for whose benefit a bond or deposit is required, the Division shall notify him:

(a) That a bond is in effect or that a deposit has been made, and the amount of ~~[the bond.]~~ either; and

(b) If there is an action against the bond, of the title, court and case number of the action and the amount sought by the plaintiff.

~~[5.]~~ 6. If ~~[a surety]~~ an insurer or, in the case of a deposit, the Division wishes to make a payment without awaiting action by a court, the amount of the bond or deposit must be reduced to the extent of any payment made by the ~~[surety]~~ insurer or the Division in good faith under the bond ~~[.]~~ or deposit. Any payment must be based on written claims received by the ~~[surety]~~ insurer or the Division before any action is taken by a court.

~~[6.]~~ 7. Claims against a bond or deposit have equal priority, and if the bond or deposit is insufficient to pay all claims in full, they must be paid on a pro rata basis. Partial payment of claims is not full payment, and any claimant may bring an action against the ~~[intermediary]~~ licensee for the unpaid balance.

Sec. 50. NRS 645.6085 is hereby amended to read as follows:

645.6085 The Division shall deposit any money it receives from a civil penalty imposed pursuant to NRS 205.960 and section 38 of this act with the State Treasurer for credit to a separate account in the State General Fund. The Division shall expend at least 75 percent of the money so received to pay administrative costs related to:

1. The ~~[registration of intermediaries.]~~ licensing of exchange facilitators; and

2. Any program it develops to supply information regarding ~~[intermediaries]~~ *exchange facilitators* to the public.

↪ Any remaining money may be used by the Division to reimburse residents of Nevada for financial losses caused by the illegal conduct of an ~~[intermediary]~~ *exchange facilitator*.

Sec. 51. NRS 205.960 is hereby amended to read as follows:

205.960 1. It is unlawful for a person to enter into an agreement to act as ~~[an]~~ *a qualified* intermediary ~~[to hold the money of another person pursuant to an exchange of property which is or is purported to be tax free pursuant to 26 U.S.C. § 1031], as defined in 26 C.F.R. § 1.1031(k)-1(g)(4), for a client whose relinquished property is located in this State unless:~~

(a) ~~[The intermediary is a qualified intermediary as defined in 26 C.F.R. § 1.1031(k)-1(g);]~~ *The proceeds from the disposition of the relinquished property are deposited into a qualified escrow account or qualified trust as defined in 26 C.F.R. § 1.1031(k)-1(g)(3).*

(b) ~~[The money is deposited in a qualified escrow account as defined in 26 C.F.R. § 1.1031(k)-1(g); and~~

~~(c)]~~ The money is held in such a manner that it may not be withdrawn from the *qualified* escrow account *or qualified trust* without the written approval of the intermediary and the ~~[person for whom he is holding the money.]~~ *client*.

2. A person who violates the provisions of this section is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. In addition to any other penalty imposed, the court shall order a person who violates subsection 1 to pay a civil penalty of not less than \$10,000. The money so collected:

(a) Must not be deducted from any penal fine imposed by the court;

(b) Must be stated separately on the court's docket; and

(c) Must be remitted forthwith to the ~~[Administrator of the Real Estate Division of the Department of Business and Industry.]~~ *Commissioner of Financial Institutions*.

Sec. 52. ~~[NRS 692A.265 is hereby amended to read as follows:~~

~~692A.265 1. A title insurer, title agent or escrow officer shall not handle an escrow, settlement or closing in which [a qualified intermediary] an exchange facilitator is involved unless he first verifies that the [qualified intermediary is registered] exchange facilitator is licensed pursuant to NRS 645.606 to 645.6085, inclusive [.] , and sections 3 to 40, inclusive, of this act.~~

~~2. The [Real Estate] Division of Financial Institutions of the Department of Business and Industry shall, each calendar quarter, publish and distribute to each title insurer, title agent and escrow officer licensed by the Commissioner, a list of the [qualified intermediaries registered] exchange facilitators licensed pursuant to NRS 645.606 to 645.6085, inclusive [.] , and sections 3 to 40, inclusive, of this act. For the purposes of subsection 1, the [registration of a qualified intermediary] license of an exchange facilitator~~

~~may be verified by ascertaining whether his name appears on the list most recently published pursuant to this subsection or, if his name does not appear on that list, by contacting the [Real Estate Division.] *Division of Financial Institutions*.~~

~~3. As used in this section, ["qualified intermediary"] "*exchange facilitator*" has the meaning ascribed to it in NRS 645.606.] *(Deleted by amendment.)*~~

Sec. 52.5. NRS 692A.265 is hereby repealed.

Sec. 53. A regulation adopted by the Real Estate Division of the Department of Business and Industry pursuant to NRS 645.606 to 645.6085, inclusive, remains in effect as a regulation of the Division of Financial Institutions of the Department of Business and Industry until amended or repealed by the Division of Financial Institutions.

Sec. 54. As soon as is practicable after passage and approval of this act, the Legislative Counsel will transfer all the regulations created under NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act to the chapter of NAC that corresponds with the new chapter of NRS in which NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act are transferred.

Sec. 55. 1. This section and sections ~~41~~ 2 to 44, inclusive, and 46 to 54, inclusive, of this act become effective on July 1, 2007.

2. Section 44 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,
 ➤ are repealed by the Congress of the United States.

3. Section 45 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a 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 ~~47~~ 45 and 46 of this act expire by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,
 ➔ are repealed by the Congress of the United States.

TEXT OF REPEALED SECTION

692A.265 Title insurer, title agent or escrow officer prohibited from handling certain matters when intermediary involved is not registered; Real Estate Division to publish list of registered intermediaries.

1. A title insurer, title agent or escrow officer shall not handle an escrow, settlement or closing in which a qualified intermediary is involved unless he first verifies that the qualified intermediary is registered pursuant to NRS 645.606 to 645.6085, inclusive.

2. The Real Estate Division of the Department of Business and Industry shall, each calendar quarter, publish and distribute to each title insurer, title agent and escrow officer licensed by the Commissioner, a list of the qualified intermediaries registered pursuant to NRS 645.606 to 645.6085, inclusive. For the purposes of subsection 1, the registration of a qualified intermediary may be verified by ascertaining whether his name appears on the list most recently published pursuant to this subsection or, if his name does not appear on that list, by contacting the Real Estate Division.

3. As used in this section, "qualified intermediary" has the meaning ascribed to it in NRS 645.606.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Carlton.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 483.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 583.

"SUMMARY—Makes various changes to provisions relating to business. (BDR 7-868)"

"AN ACT relating to business; revising provisions relating to corporations; revising the provisions relating to the reinstatement, renewal or revival of certain business associations; revising provisions relating to limited-liability companies; revising the applicability of the Uniform Partnership Act (1997); revising provisions relating to professional corporations and associations; revising provisions relating to the exemption of certain property of judgment debtors from attachment or execution; requiring financing statements of a transmitting utility to be filed in the Office of the Secretary of State; revising provisions relating to a trustee's power of sale involving real property; ~~revising provisions relating to the prohibition of certain acts by certain~~

~~personnel of a common interest community;~~ making various other changes relating to business; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill expands a corporation's powers to include the specific renunciation of certain business opportunities. (NRS 78.070) Section 2 of this bill clarifies existing law to specify that a board of directors may authorize a transaction by written consent even if the votes of common and interested directors are not counted and regardless of whether the members whose votes are not counted join or abstain from joining in such authorization. (NRS 78.140)

Existing law sets forth provisions relating to the reinstatement, renewal or revival of certain business associations. (NRS 78.180, 78.740, 80.170, 82.5237, 82.546, 84.150, 86.276, 86.5467, 86.580, 87.530, 87.5435, 88.410, 88.594, 88A.650, 88A.737, 89.256) Sections 3, 10-14, 17, 21, 22, 28-33 and 44 of this bill provide that a reinstatement, renewal or revival of certain business associations relate back to the date of forfeiture.

Section 5 of this bill prohibits a corporation from issuing stock certificates in bearer form. (NRS 78.235)

Existing law requires written consent to be signed by all members of a board or committee of a corporation before taking certain actions. (NRS 78.315) Section 6 of this bill establishes provisions exempting certain directors from signing such written consent.

Existing law requires directors of every corporation to be elected by a plurality of votes cast at the annual stockholders' meeting. (NRS 78.330) Section 8 of this bill allows the articles of incorporation or bylaws to require more than a plurality of the vote.

Section 15 of this bill establishes provisions allowing the dissolution of a limited-liability company before the commencement of any business. Section 16 of this bill provides limitations on liability by providing that a limited-liability company is an entity distinct from its managers and members. (NRS 86.201)

Existing law establishes provisions relating to the operating agreement of a limited-liability company. (NRS 86.286) Section 18 of this bill provides that an operating agreement adopted after the filing of the articles of incorporation or after the formation of the limited-liability company may be enforced against the limited-liability company whether or not it assents to the agreement.

Section 19 of this bill limits the liability of members and managers of a company by providing that the failure of a limited-liability company to observe certain formalities does not create liability for its members or managers. (NRS 86.371) Section 20 of this bill expands the class of members which may bring an action on behalf of a limited-liability company to include noneconomic members. (NRS 86.483) ~~Sections 24 and~~ Section 26 of this bill ~~revises~~ revises the provisions concerning applicability of the Uniform Partnership Act (1997). (NRS 87.025, 87.4314) Section 27 of this bill revises

the filing requirements for a registered limited-liability partnership to exclude the filing of a statement of the professional service rendered by the partnership. (NRS 87.440) Sections 34-43 of this bill revise the provisions relating to professional corporations and associations to reflect the inclusion of all professional entities and the formation of professional limited-liability companies. (NRS 89.020, 89.025, 89.030-89.110).

Existing law establishes the right of shareholders to dissent from corporate actions. (NRS 92A.380) Section 45 of this bill prohibits a dissenting shareholder to vote his shares or to receive certain dividends or distributions after his dissent.

Existing law exempts certain property of a judgment debtor from attachment or execution. (NRS 21.075, 21.090, 31.045) Sections 46-48 of this bill limit the exemption of payments received pursuant to the federal Social Security Act to such payments made for the individual support of the judgment debtor.

Existing law provides that a transmitting utility may file a financing statement in the Office of the Secretary of State or the county recorder of the appropriate county. (NRS 104.9501) Section 49 of this bill no longer allows such financing statements to be filed in a county recorder's office.

Existing law sets forth certain requirements relating to a trustee's power of sale involving real property. (NRS 107.080) Section 50 of this bill provides that ~~[a person must lack actual knowledge that the sale was not in compliance with such requirements to be a bona fide purchaser and if there is no such knowledge, the sale may not]~~ except under certain circumstances, for a sale to be declared void [] within 90 days after the date of the sale, an action must be commenced in the county where the sale took place and, within 30 days after commencing the action, notice of the action must be recorded in the office of the county recorder.

~~[Existing law prohibits certain personnel of a common interest community from soliciting or accepting gratuities under certain circumstances. (NRS 116.31185) Section 51 of this bill requires certain gratuities or gifts, although not in violation of any restriction when the gratuity or gift was provided or received, to be returned under certain circumstances.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 78.070 is hereby amended to read as follows:

78.070 Subject to such limitations, if any, as may be contained in its articles of incorporation, every corporation has the following powers:

1. To borrow money and contract debts when necessary for the transaction of its business, or for the exercise of its corporate rights, privileges or franchises, or for any other lawful purpose of its incorporation and to issue bonds, promissory notes, bills of exchange, debentures, and other obligations and evidences of indebtedness, payable at a specified time or times, or payable upon the happening of a specified event or events, whether secured by mortgage, pledge or other security, or unsecured, for

money borrowed, or in payment for property purchased or acquired, or for any other lawful object.

2. To guarantee, purchase, hold, take, obtain, receive, subscribe for, own, use, dispose of, sell, exchange, lease, lend, assign, mortgage, pledge, or otherwise acquire, transfer or deal in or with bonds or obligations of, or shares, securities or interests in or issued by, any person, government, governmental agency or political subdivision of government, and to exercise all the rights, powers and privileges of ownership of such an interest, including the right to vote, if any.

3. To purchase, hold, sell, pledge and transfer shares of its own stock, and use therefor its property or money.

4. To conduct business, have one or more offices, and hold, purchase, lease, mortgage, convey and take by devise or bequest real and personal property in this State, and in any of the several states, territories, possessions and dependencies of the United States, the District of Columbia, Puerto Rico and any foreign countries.

5. To do everything necessary and proper for the accomplishment of the objects enumerated in its articles of incorporation or necessary or incidental to the protection and benefit of the corporation, and, in general, to carry on any lawful business necessary or incidental to the attainment of the objects of the corporation, whether or not the business is similar in nature to the objects set forth in the articles of incorporation, except that:

(a) A corporation created under the provisions of this chapter does not possess the power of issuing bills, notes or other evidences of debt for circulation of money; and

(b) This chapter does not authorize the formation of banking corporations to issue or circulate money or currency within this State, or outside of this State, or at all, except the federal currency, or the notes of banks authorized under the laws of the United States.

6. To make donations for the public welfare or for charitable, scientific or educational purposes.

7. To enter into any relationship with another person in connection with any lawful activities.

8. *To renounce in its articles of incorporation or by action by the board of directors any interest or expectancy to participate in specified business opportunities or specified classes or categories of business opportunities that are presented to the corporation or one or more of its officers, directors or stockholders.*

Sec. 2. NRS 78.140 is hereby amended to read as follows:

78.140 1. A contract or other transaction is not void or voidable solely because:

(a) The contract or transaction is between a corporation and:

(1) One or more of its directors or officers; or

(2) Another corporation, firm or association in which one or more of its directors or officers are directors or officers or are financially interested;

(b) A common or interested director or officer:

(1) Is present at the meeting of the board of directors or a committee thereof which authorizes or approves the contract or transaction; or

(2) Joins in the signing of a written consent which authorizes or approves the contract or transaction pursuant to subsection 2 of NRS 78.315; or

(c) The vote or votes of a common or interested director are counted for the purpose of authorizing or approving the contract or transaction,

→ if one of the circumstances specified in subsection 2 exists.

2. The circumstances in which a contract or other transaction is not void or voidable pursuant to subsection 1 are:

(a) The fact of the common directorship, office or financial interest is known to the board of directors or committee, and the board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of the common or interested director or directors.

(b) The fact of the common directorship, office or financial interest is known to the stockholders, and they approve or ratify the contract or transaction in good faith by a majority vote of stockholders holding a majority of the voting power. The votes of the common or interested directors or officers must be counted in any such vote of stockholders.

(c) The fact of the common directorship, office or financial interest is not known to the director or officer at the time the transaction is brought before the board of directors of the corporation for action.

(d) The contract or transaction is fair as to the corporation at the time it is authorized or approved.

3. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors or a committee thereof which authorizes, approves or ratifies a contract or transaction, and if the votes of the common or interested directors are not counted at the meeting, then a majority of the disinterested directors may authorize, approve or ratify a contract or transaction.

4. *The fact that the vote or votes of the common or interested director or directors are not counted for purposes of subsection 2 does not prohibit any authorization, approval or ratification of a contract or transaction to be given by written consent pursuant to subsection 2 of NRS 78.315, regardless of whether the common or interested director signs such written consent or abstains in writing from providing consent.*

5. Unless otherwise provided in the articles of incorporation or the bylaws, the board of directors, without regard to personal interest, may establish the compensation of directors for services in any capacity. If the board of directors establishes the compensation of directors pursuant to this subsection, such compensation is presumed to be fair to the corporation unless proven unfair by a preponderance of the evidence.

Sec. 3. NRS 78.180 is hereby amended to read as follows:

78.180 1. Except as otherwise provided in subsections 3 and 4, 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.

5. *Except as otherwise provided in NRS 78.185, a reinstatement pursuant to this section relates back to the date on which the corporation forfeited its right to transact business under the provisions of this chapter and reinstates the corporation's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 4. 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. 5. NRS 78.235 is hereby amended to read as follows:

78.235 1. Except as otherwise provided in subsection 4, every stockholder is entitled to have a certificate, signed by officers or agents designated by the corporation for the purpose, certifying the number of shares ~~owned by him~~ in the corporation ~~[-] owned by the stockholder. A corporation has no power to issue a certificate in bearer form, and any such certificate that is issued is void and of no force or effect.~~

2. Whenever any certificate is countersigned or otherwise authenticated by a transfer agent or transfer clerk, and by a registrar, then a facsimile of the signatures of the officers or agents, the transfer agent or transfer clerk or the registrar of the corporation may be printed or lithographed upon the certificate in lieu of the actual signatures. If a corporation uses facsimile signatures of its officers and agents on its stock certificates, it cannot act as registrar of its own stock, but its transfer agent and registrar may be identical if the institution acting in those dual capacities countersigns or otherwise authenticates any stock certificates in both capacities.

3. If any officer or officers who have signed, or whose facsimile signature or signatures have been used on, any certificate or certificates for stock cease to be an officer or officers of the corporation, whether because of death, resignation or other reason, before the certificate or certificates have been delivered by the corporation, the certificate or certificates may nevertheless be adopted by the corporation and be issued and delivered as though the person or persons who signed the certificate or certificates, or whose facsimile signature or signatures have been used thereon, had not ceased to be an officer or officers of the corporation.

4. Unless otherwise provided in the articles of incorporation or bylaws, the board of directors may authorize the issuance of uncertificated shares of some or all of the shares of any or all of its classes or series. The issuance of uncertificated shares has no effect on existing certificates for shares until surrendered to the corporation, or on the respective rights and obligations of the stockholders. Unless otherwise provided by a specific statute, the rights

and obligations of stockholders are identical whether or not their shares of stock are represented by certificates.

5. Within a reasonable time after the issuance or transfer of shares without certificates, the corporation shall send the stockholder a written statement containing the information required on the certificates pursuant to subsection 1. At least annually thereafter, the corporation shall provide to its stockholders of record, a written statement confirming the information contained in the informational statement previously sent pursuant to this subsection.

6. Unless otherwise provided in the articles of incorporation or bylaws, a corporation may issue a new certificate of stock or, if authorized by the board of directors pursuant to subsection 4, uncertificated shares in place of a certificate previously issued by it and alleged to have been lost, stolen or destroyed. A corporation may require an owner or legal representative of an owner of a lost, stolen or destroyed certificate to give the corporation a bond or other security sufficient to indemnify it against any claim that may be made against it for the alleged loss, theft or destruction of a certificate, or the issuance of a new certificate or uncertificated shares.

Sec. 6. NRS 78.315 is hereby amended to read as follows:

78.315 1. Unless the articles of incorporation or the bylaws provide for a greater or lesser proportion, a majority of the board of directors of the corporation then in office, at a meeting duly assembled, is necessary to constitute a quorum for the transaction of business, and the act of directors holding a majority of the voting power of the directors, present at a meeting at which a quorum is present, is the act of the board of directors.

2. Unless otherwise restricted by the articles of incorporation or bylaws, any action required or permitted to be taken at a meeting of the board of directors or of a committee thereof may be taken without a meeting if, before or after the action, a written consent thereto is signed by all the members of the board or of the committee ~~and~~, *except that such written consent is not required to be signed by:*

(a) A common or interested director who abstains in writing from providing consent to the action. If a common or interested director abstains in writing from providing consent:

(1) The fact of the common directorship, office or financial interest must be known to the board of directors or committee before a written consent is signed by all the members of the board of the committee.

(2) Such fact must be described in the written consent.

(3) The board of directors or committee must approve, authorize or ratify the action in good faith by unanimous consent without counting the abstention of the common or interested director.

(b) A director who is a party to an action, suit or proceeding who abstains in writing from providing consent to the action ~~and~~ of the board of directors or committee. If a director who is a party to an action, suit or proceeding

abstains in writing from providing consent on the basis that he is a party to an action, suit or proceeding, the board of directors or committee must:

(1) Make a determination pursuant to NRS 78.751 that indemnification of the director is proper under the circumstances.

(2) Approve, authorize or ratify the action of the board of directors or committee in good faith by unanimous consent without counting the abstention of the director who is a party to an action, suit or proceeding.

3. Unless otherwise restricted by the articles of incorporation or bylaws, members of the board of directors or the governing body of any corporation, or of any committee designated by such board or body, may participate in a meeting of the board, body or committee by means of a telephone conference or similar methods of communication by which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this subsection constitutes presence in person at the meeting.

Sec. 7. NRS 78.320 is hereby amended to read as follows:

78.320 1. Unless this chapter, the articles of incorporation or the bylaws provide for different proportions:

(a) A majority of the voting power, which includes the voting power that is present in person or by proxy, regardless of whether the proxy has authority to vote on all matters, constitutes a quorum for the transaction of business; and

(b) Action by the stockholders on a matter other than the election of directors is approved if the number of votes cast in favor of the action exceeds the number of votes cast in opposition to the action.

2. Unless otherwise provided in the articles of incorporation or the bylaws, any action required or permitted to be taken at a meeting of the stockholders may be taken without a meeting if, before or after the action, a written consent thereto is signed by stockholders holding at least a majority of the voting power, except that if a different proportion of voting power is required for such an action at a meeting, then that proportion of written consents is required.

3. In no instance where action is authorized by written consent need a meeting of stockholders be called or notice given.

4. Unless otherwise restricted by the articles of incorporation or bylaws, stockholders may participate in a meeting of stockholders by means of a telephone conference or similar methods of communication by which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this subsection constitutes presence in person at the meeting.

5. Unless ~~otherwise provided in~~ this chapter, the articles of incorporation or the bylaws ~~provide for different proportions~~, if voting by a class or series of stockholders is permitted or required ~~thereof~~:

(a) A majority of the voting power of the class or series that is present in person or by proxy, regardless of whether the proxy has authority to vote on all matters, constitutes a quorum for the transaction of business ~~thereof~~; and

(b) An act by the stockholders of each class or series is approved if a majority of the voting power of a quorum of the class or series votes for the action.

Sec. 8. NRS 78.330 is hereby amended to read as follows:

78.330 1. Unless elected pursuant to NRS 78.320, *or unless the articles of incorporation or the bylaws require more than a plurality of the votes cast*, directors of every corporation must be elected at the annual meeting of the stockholders by a plurality of the votes cast at the election. Unless otherwise provided in this chapter or in the bylaws, the board of directors has the authority to set the date, time and place for the annual meeting of the stockholders. If for any reason directors are not elected pursuant to NRS 78.320 or at the annual meeting of the stockholders, they may be elected at any special meeting of the stockholders which is called and held for that purpose. Unless otherwise provided in the articles of incorporation or bylaws, each director holds office after the expiration of his term until his successor is elected and qualified, or until he resigns or is removed.

2. The articles of incorporation or the bylaws may provide for the classification of directors as to the duration of their respective terms of office or as to their election by one or more authorized classes or series of shares, but at least one-fourth in number of the directors of every corporation must be elected annually. If an amendment reclassifying the directors would otherwise increase the term of a director, unless the amendment is to the articles of incorporation and otherwise provides, the term of each incumbent director on the effective date of the amendment terminates on the date it would have terminated had there been no reclassification.

3. The articles of incorporation may provide that the voting power of individual directors or classes of directors may be greater than or less than that of any other individual directors or classes of directors, and the different voting powers may be stated in the articles of incorporation or may be dependent upon any fact or event that may be ascertained outside the articles of incorporation if the manner in which the fact or event may operate on those voting powers is stated in the articles of incorporation. If the articles of incorporation provide that any directors may have voting power greater than or less than other directors, every reference in this chapter to a majority or other proportion of directors shall be deemed to refer to a majority or other proportion of the voting power of all of the directors or classes of directors, as may be required by the articles of incorporation.

Sec. 9. NRS 78.565 is hereby amended to read as follows:

78.565 1. Unless otherwise provided in the articles of incorporation, every corporation may, by action taken at any meeting of its board of directors, sell, lease or exchange all of its property and assets, including its goodwill and its corporate franchises, upon such terms and conditions as its board of directors may approve, when and as authorized by the affirmative vote of stockholders holding stock in the corporation entitling them to

exercise at least a majority of the voting power . ~~[given at a stockholders' meeting called for that purpose.]~~

2. Unless otherwise provided in the articles of incorporation, a vote of stockholders is not necessary:

(a) For a transfer of assets by way of mortgage, or in trust or in pledge to secure indebtedness of the corporation; or

(b) To abandon the sale, lease or exchange of assets.

Sec. 10. NRS 78.740 is hereby amended to read as follows:

78.740 1. Any corporation existing on or incorporated after April 1, 1925, desiring to renew or revive its corporate existence, upon complying with the provisions of this chapter, is and continues for the time stated in its certificate of renewal to be a corporation, and in addition to the rights, privileges and immunities conferred by its original charter, possesses and enjoys all the benefits of this chapter that are applicable to the nature of its business, and is subject to the restrictions and liabilities by this chapter imposed on such corporations.

2. *Except as otherwise provided in NRS 78.185, a renewal or revival pursuant to NRS 78.730 relates back to the date on which the corporation's charter expired or was revoked and renews or revives the corporation's charter and right to transact business as if such right had at all times remained in full force and effect.*

Sec. 11. NRS 80.170 is hereby amended to read as follows:

80.170 1. Except as otherwise provided in subsections 3 and 4, 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.

5. *Except as otherwise provided in NRS 80.175, a reinstatement pursuant to this section relates back to the date on which the corporation forfeited its right to transact business under the provisions of this chapter and reinstates the corporation's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 12. NRS 82.5237 is hereby amended to read as follows:

82.5237 1. Except as otherwise provided in subsections 3 and 4, 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.

5. *Except as otherwise provided in NRS 82.5239, a reinstatement pursuant to this section relates back to the date on which the foreign nonprofit corporation forfeited its right to transact business under the provisions of this chapter and reinstates the foreign nonprofit corporation's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 13. NRS 82.546 is hereby amended to read as follows:

82.546 1. 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.

5. *Except as otherwise provided in NRS 78.185, a renewal or revival pursuant to this section relates back to the date on which the corporation's charter expired or was revoked and renews or revives the corporation's charter and right to transact business as if such right had at all times remained in full force and effect.*

Sec. 14. NRS 84.150 is hereby amended to read as follows:

84.150 1. Except as otherwise provided in subsections 3 and 4, the Secretary of State shall reinstate any corporation sole 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 corporate privileges and immunities, if it:

(a) Files with the Secretary of State a certificate of acceptance of appointment signed by the resident agent of the corporation; and

(b) Pays to the Secretary of State:

(1) The filing fees and penalties set forth in this chapter for each year or portion thereof during which its charter has been revoked; and

(2) A fee of \$25 for reinstatement.

2. When the Secretary of State reinstates the corporation to its former rights, he shall:

(a) Immediately issue and deliver to the corporation a certificate of reinstatement authorizing it to transact business, as if the fees had been paid when due; and

(b) Upon demand, issue to the corporation a certified copy of the certificate of reinstatement.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation of its charter occurred only by reason of its 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 10 consecutive years, the charter must not be reinstated.

5. *A reinstatement pursuant to this section relates back to the date on which the corporation forfeited its right to transact business under the provisions of this chapter and reinstates the corporation's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 15. Chapter 86 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Before the commencement of business by any limited-liability company where management is vested in one or more managers and where no member's interest in the limited-liability company has been issued, at least two-thirds of the organizers or the managers of the limited-liability company may dissolve the limited-liability company by filing with the Secretary of State a certificate of dissolution to dissolve the limited-liability company.*

2. *A certificate of dissolution filed with the Secretary of State pursuant to subsection 1 must state that:*

(a) *The management of the limited-liability company is vested in one or more managers;*

(b) *The limited-liability company has not commenced business; and*

(c) *No member's interest in the limited-liability company has been issued.*

Sec. 16. NRS 86.201 is hereby amended to read as follows:

86.201 1. A limited-liability company is considered legally organized pursuant to this chapter upon:

(a) Filing the articles of organization with the Secretary of State or upon a later date specified in the articles of organization;

(b) Filing the certificate of acceptance of the resident agent with the Secretary of State; and

(c) Paying the required filing fees to the Secretary of State.

2. A limited-liability company must not transact business or incur indebtedness, except that which is incidental to its organization or to obtaining subscriptions for or payment of contributions, until the company is considered legally organized pursuant to subsection 1.

3. *A limited-liability company is an entity distinct from its managers and members.*

Sec. 17. NRS 86.276 is hereby amended to read as follows:

86.276 1. Except as otherwise provided in subsections 3 and 4, 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.

5. *Except as otherwise provided in NRS 86.278, a reinstatement pursuant to this section relates back to the date on which the company forfeited its right to transact business under the provisions of this chapter and reinstates the company's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 18. NRS 86.286 is hereby amended to read as follows:

86.286 1. A limited-liability company may, but is not required to, adopt an operating agreement. An operating agreement may be adopted only

by the unanimous vote or unanimous written consent of the members, or by the sole member, and the operating agreement must be in writing. Unless otherwise provided in the operating agreement, amendments to the agreement may be adopted only by the unanimous vote or unanimous written consent of the persons who are members at the time of amendment.

2. An operating agreement may be adopted before, after or at the time of the filing of the articles of organization and, whether entered into before, after or at the time of the filing, may become effective at the formation of the limited-liability company or at a later date specified in the operating agreement. If an operating agreement is adopted ~~before~~ :

(a) *Before the filing of the articles of organization or before the effective date of formation specified in the articles of organization, the operating agreement is not effective until the effective date of formation of the limited-liability company.*

(b) *After the filing of the articles of organization or after the effective date of formation specified in the articles of organization, the operating agreement binds the limited-liability company and may be enforced whether or not the limited-liability company assents to the operating agreement.*

3. An operating agreement may provide that a certificate of limited-liability company interest issued by the limited-liability company may evidence a member's interest in a limited-liability company.

Sec. 19. NRS 86.371 is hereby amended to read as follows:

86.371 1. Unless otherwise provided in the articles of organization or an agreement signed by the member or manager to be charged, no member or manager of any limited-liability company formed under the laws of this State is individually liable for the debts or liabilities of the company.

2. *The failure of a limited-liability company to observe any formality relating to the exercise of its powers or management of its activities is not a ground for imposing liability on a member or manager for the debts or liabilities of the limited-liability company.*

Sec. 20. NRS 86.483 is hereby amended to read as follows:

86.483 A member, ~~when permitted~~ *including a noneconomic member unless otherwise prohibited* by the terms of the articles of organization or operating agreement, may bring an action in the right of a limited-liability company to recover a judgment in its favor if managers or members with authority to do so have refused to bring the action or if an effort to cause those managers or members to bring the action is not likely to succeed.

Sec. 21. NRS 86.5467 is hereby amended to read as follows:

86.5467 1. Except as otherwise provided in subsections 3 and 4, 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.

5. *Except as otherwise provided in NRS 86.5468, a reinstatement pursuant to this section relates back to the date on which the foreign limited-liability company forfeited its right to transact business under the provisions of this chapter and reinstates the foreign limited-liability company's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 22. NRS 86.580 is hereby amended to read as follows:

86.580 1. 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.

5. *Except as otherwise provided in NRS 86.278, a renewal or revival pursuant to this section relates back to the date on which the limited-liability company's charter expired or was revoked and renews or revives the limited-liability company's charter and right to transact business as if such right had at all times remained in full force and effect.*

Sec. 23. NRS 87.020 is hereby amended to read as follows:

87.020 As used in NRS 87.010 to 87.430, inclusive, unless the context otherwise requires:

1. "Bankrupt" includes bankrupt under the Federal Bankruptcy Act or insolvent under any state insolvent act.

2. "Conveyance" includes every assignment, lease, mortgage or encumbrance.

3. "Court" includes every court and judge having jurisdiction in the case.

4. "Real property" includes land and any interest or estate in land.

5. "Registered limited-liability partnership" means a partnership formed pursuant to an agreement governed by NRS 87.010 to 87.430, inclusive, ~~for the purpose of rendering a professional service~~ and registered pursuant to and complying with NRS 87.440 to 87.560, inclusive.

Sec. 24. ~~[NRS 87.025 is hereby amended to read as follows:~~

~~87.025 The provisions of NRS 87.010 to 87.430, inclusive, apply to a partnership [:~~

~~1. Which was formed before July 1, 2006, and which] *that does not voluntarily elect in its statement of partnership authority to be governed by the provisions of NRS 87.4301 to 87.4357, inclusive* [; or~~

~~2. Which is formed on or after July 1, 2006, and which voluntarily elects to be governed by the provisions of NRS 87.010 to 87.430, inclusive.]~~
~~(Deleted by amendment.)~~

Sec. 25. NRS 87.4311 is hereby amended to read as follows:

87.4311 "Registered limited-liability partnership" means a partnership formed pursuant to an agreement governed by NRS 87.4301 to 87.4357, inclusive, ~~[for the purpose of rendering a professional service]~~ and registered pursuant to and complying with NRS 87.440 to 87.560, inclusive.

Sec. 26. NRS 87.4314 is hereby amended to read as follows:

87.4314 The provisions of NRS 87.4301 to 87.4357, inclusive, apply to a partnership :

~~1. Which [was formed before July 1, 2006; or~~

~~2. Which is formed on or after July 1, 2006, and which] *that* voluntarily elects *in its statement of partnership authority* to be governed by the provisions of NRS 87.4301 to 87.4357, inclusive. [; or~~

~~2. Which is formed on or after July 1, 2006, and which does not voluntarily elect to be governed by the provisions of NRS 87.010 to 87.430, inclusive.~~

Sec. 27. NRS 87.440 is hereby amended to read as follows:

87.440 1. To become a registered limited-liability partnership, a partnership shall file with the Secretary of State a certificate of registration stating each of the following:

(a) The name of the partnership.
 (b) The street address of its principal office.
 (c) The name of the person designated as the partnership's resident agent, the street address of the resident agent where process may be served upon the partnership and the mailing address of the resident agent if it is different than his street address.

(d) The name and business address of each managing partner in this State.

~~(e) [A brief statement of the professional service rendered by the partnership.~~

~~(f)]~~ That the partnership thereafter will be a registered limited-liability partnership.

~~[(g)]~~ (f) Any other information that the partnership wishes to include.

2. The certificate of registration must be signed by a majority in interest of the partners or by one or more partners authorized to sign such a certificate.

3. The certificate of registration must be accompanied by a fee of \$75.

4. The Secretary of State shall register as a registered limited-liability partnership any partnership that submits a completed certificate of registration with the required fee.

5. The registration of a registered limited-liability partnership is effective at the time of the filing of the certificate of registration.

Sec. 28. NRS 87.530 is hereby amended to read as follows:

87.530 1. Except as otherwise provided in subsection 3, 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.

4. *Except as otherwise provided in NRS 87.455, a reinstatement pursuant to this section relates back to the date on which the registered limited-liability partnership's certificate of registration was revoked and reinstates the registered limited-liability's certificate of registration as if such certificate had at all times remained in full force and effect.*

Sec. 29. NRS 87.5435 is hereby amended to read as follows:

87.5435 1. Except as otherwise provided in subsections 3 and 4, 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.

5. *Except as otherwise provided in NRS 87.544, a reinstatement pursuant to this section relates back to the date on which the foreign registered limited-liability partnership forfeited its right to transact business under the provisions of this chapter and reinstates the foreign registered limited-liability partnership's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 30. NRS 88.410 is hereby amended to read as follows:

88.410 1. Except as otherwise provided in subsections 3 and 4, 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.

5. *Except as otherwise provided in NRS 88.327, a reinstatement pursuant to this section relates back to the date on which the limited partnership forfeited its right to transact business under the provisions of this chapter and reinstates the limited partnership's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 31. NRS 88.594 is hereby amended to read as follows:

88.594 1. Except as otherwise provided in subsections 3 and 4, 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.

5. *Except as otherwise provided in NRS 88.5945, a reinstatement pursuant to this section relates back to the date on which the foreign limited partnership forfeited its right to transact business under the provisions of this*

chapter and reinstates the foreign limited partnership's right to transact business as if such right had at all times remained in full force and effect.

Sec. 32. NRS 88A.650 is hereby amended to read as follows:

88A.650 1. Except as otherwise provided in subsections 3 and 4, 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.

5. *Except as otherwise provided in NRS 88A.660, a reinstatement pursuant to this section relates back to the date on which the business trust forfeited its right to transact business under the provisions of this chapter and reinstates the business trust's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 33. NRS 88A.737 is hereby amended to read as follows:

88A.737 1. Except as otherwise provided in subsections 3 and 4, 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.

5. *Except as otherwise provided in NRS 88A.738, a reinstatement pursuant to this section relates back to the date the foreign business trust forfeited its right to transact business under the provisions of this chapter and reinstates the foreign business trust's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 34. NRS 89.020 is hereby amended to read as follows:

89.020 As used in this chapter, unless the context requires otherwise:

1. *"Articles" means either the articles of incorporation of a professional corporation or the articles of organization of a professional limited-liability company.*

2. *"Employee" means a person licensed or otherwise legally authorized to render professional service within this State who renders such service through a professional ~~corporation~~ entity or a professional association, but does not include clerks, bookkeepers, technicians or other persons who are not usually considered by custom and practice of the profession to be rendering professional services to the public.*

~~{2-}~~ 3. *"Licensed" means legally authorized by the appropriate regulating board of this State to engage in a regulated profession in this State.*

~~{3-}~~ 4. *"Professional association" means a common-law association of two or more persons licensed or otherwise legally authorized to render professional service within this State when created by written articles of association which contain in substance the following provisions characteristic of corporate entities:*

(a) The death, insanity, bankruptcy, retirement, resignation, expulsion or withdrawal of any member of the association does not cause its dissolution.

(b) The authority to manage the affairs of the association is vested in a board of directors or an executive board or committee, elected by the members of the association.

(c) The members of the association are employees of the association.

(d) Members' ownership is evidenced by certificates.

~~{4.}~~ 5. "Owner" means the owner of stock in a professional corporation or the owner of a member's interest, as defined in NRS 86.091, in a professional limited-liability company.

6. "Owner's interest" means the stock of a professional corporation or a member's interest, as defined in NRS 86.091, of a professional limited-liability company.

7. "Professional corporation" means a corporation organized under this chapter to render a professional service.

~~{5.}~~ 8. "Professional entity" means either a professional corporation or a professional limited-liability company.

9. "Professional limited-liability company" means a limited-liability company organized pursuant to this chapter to render professional service.

10. "Professional service" means any type of personal service which may legally be performed only pursuant to a license, certificate of registration or other legal authorization.

~~{6.}~~ 11. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

~~{7.}~~ 12. "Regulating board" means the body which regulates and authorizes the admission to the profession which a professional ~~{corporation}~~ entity or a professional association is authorized to perform.

~~{8.}~~ 13. "Sign" means to affix a signature to a record.

~~{9.}~~ 14. "Signature" means a name, word, symbol or mark executed or otherwise adopted, or a record encrypted or similarly processed in whole or in part, by a person with the present intent to identify himself and adopt or accept a record. The term includes, without limitation, an electronic signature as defined in NRS 719.100.

Sec. 35. NRS 89.025 is hereby amended to read as follows:

89.025 Except as otherwise provided in NRS 89.200 to 89.270, inclusive, the fees set forth in NRS 78.755 to 78.785, inclusive, apply to ~~{this chapter.}~~ professional corporations and the fees set forth in NRS 86.561 apply to professional limited-liability companies.

Sec. 36. NRS 89.030 is hereby amended to read as follows:

89.030 The laws applicable to other Nevada ~~{private}~~ corporations organized under chapter 78 of NRS and limited-liability companies organized under chapter 86 of NRS and all rights, privileges and duties thereunder shall apply to professional corporations ~~{}~~ and professional limited-liability companies, respectively, except where such laws are in conflict with or inconsistent with the provisions of this chapter. In case of conflict, the provisions of this chapter shall apply.

Sec. 37. NRS 89.040 is hereby amended to read as follows:

89.040 1. One or more persons may organize a professional ~~{corporation}~~ entity in the manner provided for organizing a ~~{private}~~

corporation pursuant to chapter 78 of NRS ~~[.]~~ or a limited-liability company pursuant to chapter 86 of NRS. Each person organizing the ~~[corporation]~~ professional entity must, except as otherwise provided in subsection 2 of NRS 89.050, be authorized to perform the professional service for which the ~~[corporation]~~ professional entity is organized. The articles ~~[of incorporation]~~ must contain the following additional information:

(a) The profession to be practiced by means of the professional ~~[corporation]~~ entity.

(b) The names and addresses, either residence or business, of the original stockholders and directors of the professional corporation ~~[.]~~ or the original members and managers of the professional limited-liability company.

(c) Except as otherwise provided in paragraph (d) of this subsection, a certificate from the regulating board of the profession to be practiced showing that each of the directors, ~~[and each of the]~~ stockholders, managers or members who is a natural person, is licensed to practice the profession.

(d) For a professional ~~[corporation]~~ entity organized pursuant to this chapter and practicing pursuant to the provisions of NRS 623.349, a certificate from the regulating board or boards of the profession or professions to be practiced showing that control and two-thirds ownership of the ~~[corporation]~~ professional entity is held by persons registered or licensed pursuant to the applicable provisions of chapter 623, 623A or 625 of NRS. As used in this paragraph, "control" has the meaning ascribed to it in NRS 623.349.

2. The corporate name of a professional corporation must contain the words "Professional Corporation" or the abbreviation "Prof. Corp.," "P.C." or "PC," or the word "Chartered" or the abbreviation "Chtd.," or "Limited" or the abbreviation "Ltd." The corporate name must contain the last name of one or more of its current or former stockholders. ~~[The corporation]~~

3. The name of a professional limited-liability company must contain the words "Professional Limited-Liability Company" or the abbreviations "Prof. L.L.C.," "Prof. LLC," "P.L.L.C.," "PLLC," or the word "Chartered" or the abbreviation "Chtd.," or "Limited" or the abbreviation "Ltd." The name of a professional limited-liability company must contain the last name of one or more of its current or former members.

4. The professional entity may render professional services and exercise its authorized powers under a fictitious name if the ~~[corporation]~~ professional entity has first registered the name in the manner required by chapter 602 of NRS.

Sec. 38. NRS 89.050 is hereby amended to read as follows:

89.050 1. Except as otherwise provided in subsection 2, a professional ~~[corporation]~~ entity may be organized only for the purpose of rendering one specific type of professional service and may not engage in any business other than rendering the professional service for which it was organized and services reasonably related thereto, except that a professional ~~[corporation]~~ entity may own real and personal property appropriate to its business and

may invest its money in any form of real property, securities or any other type of investment.

2. A professional ~~corporation~~ *entity* may be organized to render a professional service relating to:

(a) Architecture, interior design, residential design, engineering and landscape architecture, or any combination thereof, and may be composed of persons:

(1) Engaged in the practice of architecture as provided in chapter 623 of NRS;

(2) Practicing as a registered interior designer as provided in chapter 623 of NRS;

(3) Engaged in the practice of residential design as provided in chapter 623 of NRS;

(4) Engaged in the practice of landscape architecture as provided in chapter 623A of NRS; and

(5) Engaged in the practice of professional engineering as provided in chapter 625 of NRS.

(b) Medicine, homeopathy and osteopathy, and may be composed of persons engaged in the practice of medicine as provided in chapter 630 of NRS, persons engaged in the practice of homeopathic medicine as provided in chapter 630A of NRS and persons engaged in the practice of osteopathic medicine as provided in chapter 633 of NRS. Such a professional ~~corporation~~ *entity* may market and manage additional professional ~~corporations~~ *entities* which are organized to render a professional service relating to medicine, homeopathy and osteopathy.

(c) Mental health services, and may be composed of the following persons, in any number and in any combination:

(1) Any psychologist who is licensed to practice in this State;

(2) Any social worker who holds a master's degree in social work and who is licensed by this State as a clinical social worker;

(3) Any registered nurse who is licensed to practice professional nursing in this State and who holds a master's degree in the field of psychiatric nursing; and

(4) Any marriage and family therapist who is licensed by this State pursuant to chapter 641A of NRS.

↪ Such a professional ~~corporation~~ *entity* may market and manage additional professional ~~corporations~~ *entities* which are organized to render a professional service relating to mental health services pursuant to this paragraph.

3. A professional ~~corporation~~ *entity* may render a professional service only through its officers, *managers* and employees who are licensed or otherwise authorized by law to render the professional service.

Sec. 39. NRS 89.060 is hereby amended to read as follows:

89.060 The provisions of this chapter relating to professional ~~corporations~~ *entities* do not modify any law applicable to the relationship

between a person furnishing professional service and a person receiving such service, including liability arising out of such professional service, but nothing contained in this section renders:

1. A person personally liable in tort for any act in which he has not personally participated.

2. A director, officer or employee of a professional ~~[corporation]~~ *entity* liable in contract for any contract which he signs on behalf of a professional ~~[corporation]~~ *entity* within the limits of his actual authority.

Sec. 40. NRS 89.070 is hereby amended to read as follows:

89.070 1. Except as otherwise provided in this section and NRS 623.349:

(a) No ~~[corporation organized under the provisions of this chapter]~~ *professional entity* may issue any of its ~~[stock]~~ *ownership* owner's interest to anyone other than a natural person who is licensed to render the same specific professional services as those for which the ~~[corporation]~~ *professional entity* was ~~[incorporated]~~ *formed*.

(b) No ~~[stockholder of a corporation organized under this chapter]~~ *owner* may enter into a voting trust agreement or any other type of agreement vesting another person with the authority to exercise the voting power of any or all of his ~~[stock]~~ *owner's interest*, unless the other person is licensed to render the same specific professional services as those for which the ~~[corporation]~~ *professional entity* was ~~[incorporated]~~ *formed*.

(c) No ~~[shares of a corporation organized under this chapter]~~ *owner's interest* may be sold or transferred except to a natural person who is eligible to be ~~[a stockholder of the corporation]~~ *an owner* or to the personal representative or estate of a deceased or legally incompetent stockholder. The personal representative or estate of the ~~[stockholder]~~ *owner* may continue to own ~~[shares]~~ *the owner's interest* for a reasonable period, but may not participate in any decisions concerning the rendering of professional services.

➡ The articles, ~~[of incorporation or]~~ *bylaws or operating agreement of the professional entity* may provide specifically for additional restrictions on the transfer of ~~[shares]~~ *an owner's interest* and may provide for the redemption or purchase of the ~~[shares]~~ *owner's interest* by the ~~[corporation]~~ *professional entity*, its ~~[stockholders]~~ *owners* or an eligible individual account plan complying with the requirements of subsection 2 at prices and in a manner specifically set forth. ~~[A stockholder]~~ *An owner* may transfer his ~~[shares]~~ *owner's interest* in the ~~[corporation]~~ *professional entity* or any other interest in the assets of the ~~[corporation]~~ *professional entity* to a revocable trust if he acts as trustee of the revocable trust and any person who acts as cotrustee and is not licensed to perform the services for which the ~~[corporation]~~ *professional entity* was ~~[incorporated]~~ *formed* does not participate in any decisions concerning the rendering of those services.

2. Except as otherwise provided in NRS 623.349, a person not licensed to render the professional services for which the ~~[corporation]~~ *professional entity* was ~~[incorporated]~~ *formed* may own a beneficial interest in any of the

assets, including ~~{corporate shares,}~~ *an owner's interest*, held for his account by an eligible individual account plan sponsored by the professional ~~{corporation}~~ *entity* for the benefit of its employees, which is intended to qualify under section 401 of the Internal Revenue Code, 26 U.S.C. § 401, if the terms of the trust are such that the total number of shares which may be distributed for the benefit of persons not licensed to render the professional services for which the ~~{corporation}~~ *professional entity* was ~~{incorporated}~~ *formed* is less than a controlling interest and:

(a) The trustee of the trust is licensed to render the same specific professional services as those for which the ~~{corporation}~~ *professional entity* was ~~{incorporated;}~~ *formed*; or

(b) The trustee is not permitted to participate in any ~~{corporate}~~ decisions concerning the rendering of professional services in his capacity as trustee.

➡ A trustee who is individually ~~{a stockholder of the corporation}~~ *an owner* may participate in his individual capacity as ~~{a stockholder,}~~ *an owner, manager, director or officer* in any ~~{corporate}~~ decision.

3. Except as otherwise provided in subsection 4, a professional ~~{corporation}~~ *entity* in which all the ~~{stockholders}~~ *owners* who are natural persons are licensed to render the same specific professional service may acquire and hold ~~{stock}~~ *an owner's interest* in another professional ~~{corporation,}~~ *entity* or in a similar ~~{corporation}~~ *entity* organized pursuant to the corresponding law of another state, only if all the ~~{stockholders}~~ *owners* who are natural persons of the ~~{corporation}~~ *professional entity* whose stock is acquired are licensed in that ~~{corporation's}~~ *professional entity's* state of ~~{incorporation}~~ *formation* to render the same specific professional service as the ~~{stockholders}~~ *owners* who are natural persons of the professional ~~{corporation}~~ *entity* that acquires the ~~{stock}~~ *owner's interest*.

4. A professional ~~{corporation}~~ *entity* practicing pursuant to NRS 623.349 in which all the ~~{stockholders}~~ *owners* are natural persons, regardless of whether or not the natural persons are licensed to render the same specific professional service, may acquire and hold ~~{stock}~~ *an owner's interest* in another professional ~~{corporation}~~ *entity* or in a similar ~~{corporation}~~ *entity* organized pursuant to the corresponding law of another state if control and two-thirds ownership of the business organization or association that is acquired is held by persons registered or licensed pursuant to the applicable provisions of chapter 623, 623A or 625 of NRS. As used in this subsection, "control" has the meaning ascribed to it in NRS 623.349.

5. Any act in violation of this section is void and does not pass any rights or privileges or vest any powers, except to an innocent person who is not ~~{a stockholder}~~ *an owner* and who has relied on the effectiveness of the action.

Sec. 41. NRS 89.080 is hereby amended to read as follows:

89.080 1. If any officer, stockholder, director, *member, manager* or employee of ~~{a corporation}~~ *a professional entity* organized under this chapter who has been rendering professional service to the public becomes legally disqualified to render such professional services within this State, he

shall sever within a reasonable period all professional service with and financial interest in the ~~{corporation}~~ *professional entity*, but this chapter does not prevent a ~~{corporation}~~ *professional entity* formed under this chapter from entering into a contract with an employee which provides for severance pay or for compensation for past services upon termination of professional service, whether by death or otherwise.

2. Except as otherwise provided in NRS 623.349, a natural person may not be an officer, ~~{or}~~ director or manager of a ~~{corporation-organized}~~ *professional entity* formed under this chapter unless he is licensed to render the same specific professional services as those for which the ~~{corporation}~~ *professional entity* was ~~{incorporated}~~ *formed*.

3. Upon the death of ~~{a stockholder}~~ *an owner* of a ~~{corporation}~~ *professional entity* who has transferred his interest in the ~~{corporation}~~ *professional entity* to a revocable trust as permitted by NRS 89.070, the trustee of the revocable trust may continue to retain any interest so transferred ~~{including corporate shares}~~ for a reasonable period, but may not exercise any authority concerning the rendering of professional services and may not, except as otherwise provided in NRS 623.349, distribute the ~~{corporate}~~ *owner's* interest to any person not licensed to render the services for which the ~~{corporation}~~ *professional entity* was ~~{incorporated}~~ *formed*.

4. A ~~{corporation's}~~ *professional entity's* failure to require compliance with the provisions of this section is a ground for the forfeiture of its charter.

Sec. 42. NRS 89.100 is hereby amended to read as follows:

89.100 The provisions of this chapter relating to professional ~~{corporations}~~ *entities* do not bar the regulating board of any profession from taking any action otherwise within its power, nor do they affect the rules of ethics or practice of any profession.

Sec. 43. NRS 89.110 is hereby amended to read as follows:

89.110 No professional ~~{corporation}~~ *entity* may do any act which is prohibited to be done by natural persons licensed to practice the profession which the professional ~~{corporation}~~ *entity* is organized to practice.

Sec. 44. NRS 89.256 is hereby amended to read as follows:

89.256 1. Except as otherwise provided in subsections 3 and 4, 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.

5. *A reinstatement pursuant to this section relates back to the date on which the professional association forfeited its right to transact business under the provisions of this chapter and reinstates the professional association's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 45. NRS 92A.380 is hereby amended to read as follows:

92A.380 1. Except as otherwise provided in NRS 92A.370 and 92A.390, any stockholder is entitled to dissent from, and obtain payment of the fair value of his shares in the event of any of the following corporate actions:

(a) Consummation of a conversion or plan of merger to which the domestic corporation is a constituent entity:

(1) If approval by the stockholders is required for the conversion or merger by NRS 92A.120 to 92A.160, inclusive, or the articles of incorporation, regardless of whether the stockholder is entitled to vote on the conversion or plan of merger; or

(2) If the domestic corporation is a subsidiary and is merged with its parent pursuant to NRS 92A.180.

(b) Consummation of a plan of exchange to which the domestic corporation is a constituent entity as the corporation whose subject owner's interests will be acquired, if his shares are to be acquired in the plan of exchange.

(c) Any corporate action taken pursuant to a vote of the stockholders to the extent that the articles of incorporation, bylaws or a resolution of the board of directors provides that voting or nonvoting stockholders are entitled to dissent and obtain payment for their shares.

(d) Any corporate action not described in paragraph (a), (b) or (c) that will result in the stockholder receiving money or scrip instead of fractional shares ~~[-]~~ *except where the stockholder would not be entitled to receive such payment pursuant to NRS 78.205, 78.2055 or 78.207.*

2. A stockholder who is entitled to dissent and obtain payment pursuant to NRS 92A.300 to 92A.500, inclusive, may not challenge the corporate

action creating his entitlement unless the action is unlawful or fraudulent with respect to him or the domestic corporation.

3. *From and after the effective date of any corporate action described in subsection 1, no stockholder who has exercised his right to dissent pursuant to NRS 92A.300 to 92A.500, inclusive, is entitled to vote his shares for any purpose or to receive payment of dividends or any other distributions on shares. This subsection does not apply to dividends or other distributions payable to stockholders on a date before the effective date of any corporate action from which the stockholder has dissented.*

Sec. 46. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to (name of person), the judgment creditor. He has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments *for your individual support* received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$350,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. A vehicle, if your equity in the vehicle is less than \$15,000.

11. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

12. Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

13. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

15. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

16. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

17. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

18. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

19. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

20. Payments received as restitution for a criminal act.

➡ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to indigent or elderly persons).

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless you or the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The motion for the hearing to determine the issue of exemption must be filed within 10 days after the affidavit claiming exemption is filed. The hearing to determine whether the property or money is exempt must be held within 10 days after the motion for the hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 47. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed \$5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed \$12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed \$4,500 in value, belonging to the judgment debtor to be selected by him.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of himself and his family not to exceed \$10,000 in value.

(e) The cabin or dwelling of a miner or prospector, his cars, implements and appliances necessary for carrying on any mining operations and his mining claim actually worked by him, not exceeding \$4,500 in total value.

(f) Except as otherwise provided in paragraph (o), one vehicle if the judgment debtor's equity does not exceed \$15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (n), (r) and (s), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining,

and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does not exceed \$15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the \$15,000 bears to the whole annual premium paid.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself and family, where the amount of equity held by the judgment debtor in the home does not exceed \$350,000 in value and the dwelling is situated upon lands not owned by him.

(n) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(o) Any vehicle owned by the judgment debtor for use by him or his dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(p) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(q) Money, not to exceed \$500,000 in present value, held in:

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(r) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(t) Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(u) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(v) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as restitution for a criminal act.

(x) Payments *for individual support* received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 48. NRS 31.045 is hereby amended to read as follows:

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013; or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

➔ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

Plaintiff, ... (name of person), alleges that you owe him money. He has begun the procedure to collect that money. To secure satisfaction of judgment the court has ordered the garnishment of your wages, bank account or other personal property held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments *for your individual support* received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed \$350,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. A vehicle, if your equity in the vehicle is less than \$15,000.

11. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

12. Money, not to exceed \$500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

13. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

15. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

16. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

17. Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a

person upon whom the judgment debtor is dependent at the time the payment is received.

18. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

19. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

20. Payments received as restitution for a criminal act.

↪ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through (name of organization in county providing legal services to the indigent or elderly persons).

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The hearing must be held within 10 days after the motion for a hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you believe your property is exempt. You may also file a motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO

THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Sec. 49. NRS 104.9501 is hereby amended to read as follows:

104.9501 1. Except as otherwise provided in subsection 2, if the law of this State governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

(a) The office designated for the filing or recording of a mortgage on the real property, if:

(1) The collateral is as-extracted collateral or timber to be cut; or

(2) The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or

(b) The office of the Secretary of State in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

2. The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the Secretary of State . ~~for the county recorder of the appropriate county, as determined pursuant to chapter 105 of NRS.~~ The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

Sec. 50. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor, and to the person who holds the title of record on the date the notice of default and election to sell is recorded, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor and any other person entitled to notice pursuant to this section by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; and

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A ~~person who purchases property pursuant to this section~~ [is not] ~~without actual knowledge that the sale does not substantially comply with the provisions of this section is a bona fide purchaser, and, in the absence of such knowledge,~~ ~~the~~ sale made pursuant to this section may ~~not~~ be declared void by any court of competent jurisdiction in the county where the sale took place if ~~the~~ :

(a) The trustee or other person authorized to make the sale does not substantially ~~has failed to~~ comply with the provisions of this section. ~~;~~ :

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

Sec. 51. ~~[NRS 116.31185 is hereby amended to read as follows:~~

~~116.31185—1. Except as otherwise provided in subsection 2, a member of an executive board, an officer of an association or a community manager shall not solicit or accept any form of compensation, gratuity or other remuneration that:~~

~~(a) Would improperly influence or would appear to a reasonable person to improperly influence the decisions made by those persons; or~~

~~(b) Would result or would appear to a reasonable person to result in a conflict of interest for those persons.~~

~~2. Notwithstanding the provisions of subsection 1, a member of an executive board, an officer of an association, a community manager or any person working for a community manager who, either individually or in association with others, has authority to retain an attorney or a law firm or to contract with vendors on behalf of the association or community manager, as applicable, shall not accept, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value from:~~

~~(a) [An] Except as otherwise provided in this paragraph, an attorney, law firm or vendor [,] then retained by or under contract with, as applicable, the association or community manager, or any person working [directly or indirectly] for the attorney, law firm or vendor, which total more than the amount established by the Commission by regulation, not to exceed \$100 per year per such attorney, law firm or vendor . [, or] This paragraph does not apply to any person working indirectly for such an attorney, law firm or vendor unless the work is for the association or community manager.~~

~~(b) A declarant, an affiliate of a declarant or any person responsible for the construction of the applicable community or association which total more than the amount established by the Commission by regulation, not to exceed \$100 per year per such declarant, affiliate or person.~~

~~3. [An] Any gift, incentive, gratuity, reward or other item of value received by an attorney, law firm or vendor or any person working for the attorney, law firm or vendor when the attorney, law firm or vendor or the person working for the attorney, law firm or vendor was not retained by or under contract with the association or community manager who provided the gift, must be promptly returned if, within 1 year after the receipt of the gift, incentive, gratuity, reward or other item of value, the attorney, law firm or vendor or any person working for the attorney, law firm or vendor is retained or contracted by such association or community manager.~~

~~4. Except as otherwise provided in this subsection, an attorney, law firm or vendor [,] then retained by or under contract with, as applicable, the association or community manager, or any person working [directly or indirectly] for the attorney, law firm or vendor, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board, an officer of the association, the community manager or any person working for the community manager who, either individually or in association with others, has authority to retain an attorney or a law firm or to contract with vendors on behalf of the association or community manager, as applicable, which total more than the amount established by the Commission by regulation, not to exceed \$100 per year per such member, officer, community manager or person.~~

~~[4.] This subsection does not apply to any person working indirectly for such an attorney, law firm or vendor unless the work is for the association or community manager.~~

~~5. Any gift, incentive, gratuity, reward or other item of value provided by an attorney, law firm or vendor or any person working for the attorney, law firm or vendor when the attorney, law firm or vendor or the person working for the attorney, law firm or vendor was not retained by or under contract with the association or community manager who received the gift must be promptly returned if, within 1 year after the receipt of the gift, incentive, gratuity, reward or other item of value, the attorney, law firm or vendor or any person working for the attorney, law firm or vendor is retained or contracted by such association or community manager.~~

~~6. A declarant, an affiliate of a declarant or any person responsible for the construction of a community or association, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board, an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed \$100 per year per such member, officer, community manager or person.~~

~~[5.] 7. In addition to the limitations set forth in subsection 1, a community manager shall not solicit or accept any form of compensation, fee or other remuneration that is based, in whole or in part, on:~~

~~(a) The number or amount of fines imposed against or collected from units' owners or tenants or guests of units' owners pursuant to NRS 116.31031 for violations of the governing documents of the association; or~~

~~(b) Any percentage or proportion of those fines.~~

~~[6.] 8. The provisions of this section do not prohibit a community manager from being paid compensation, a fee or other remuneration under the terms of a contract between the community manager and an association if:~~

~~(a) The scope of the respective rights, duties and obligations of the parties under the contract comply with the standards of practice for community managers adopted by the Commission pursuant to NRS 116A.400;~~

~~(b) The compensation, fee or other remuneration is being paid to the community manager for providing management of the common interest community; and~~

~~(c) The compensation, fee or other remuneration is not structured in a way that would violate the provisions of subsection 1 or [5.] 7. (*Deleted by amendment.*)~~

Sec. 52. NRS 87.003 is hereby repealed.

TEXT OF REPEALED SECTION

87.003 "Professional service" defined. "Professional service" means any type of personal service that may legally be performed only pursuant to a license or certificate of registration.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 484.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 351.

"SUMMARY—~~[Creates the position of]~~ *Makes an appropriation for a Rural Land Use Planner within the Division of State Lands of the State Department of Conservation and Natural Resources. (BDR ~~[(26-397)]~~ S-397)"*

"AN ACT ~~[relating to land use; creating the position of Rural Land Use Planner within the Division of State Lands of the State Department of Conservation and Natural Resources; setting forth the powers and duties of the Rural Land Use Planner.]~~ *making an appropriation to the Division of State Lands of the State Department of Conservation and Natural Resources for the salary and operating expenses for a Rural Land Use Planner; and providing other matters properly relating thereto.*"

~~[Legislative Counsel's Digest]~~

~~Existing law establishes the State Land Use Planning Agency and the Land Use Planning Advisory Council. (NRS 321.700, 321.740) The State Land Use Planning Agency, through the Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, is required to develop information concerning land use planning and make that information available to counties and cities. (NRS 321.720) The Land Use Planning Advisory Council is required to provide advice to the Administrator concerning the development of information for land use planning by counties and cities. (NRS 321.750)~~

~~Existing law states that local governments in the State of Nevada have primary authority to provide for land use planning within the jurisdiction of the local government. Existing law further states that participation by the State of Nevada in land use planning by local governments should be limited to a few specified instances. (NRS 321.640)~~

~~Section 2 of this bill creates the position of Rural Land Use Planner within the Division of State Lands. The Administrator of the Division must appoint the Rural Land Use Planner on the basis of his training, education, experience, capability and interest in land use planning.~~

~~Section 3 of this bill requires the Rural Land Use Planner to provide assistance to rural counties and cities relating to the development and use of land within the county or city and the preparation of federal land disposal bills. Section 3 also requires the Rural Land Use Planner to act as liaison between the Federal Government, the State of Nevada and local governmental entities concerning land use planning.~~

~~Section 4 of this bill expands the circumstances under which the State of Nevada may participate in land use planning by local governments to include the activities of the Rural Land Use Planner.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Delete existing sections 1 through 6 of this bill and replace with the following new sections 1 through 4.

Section 1. There is hereby appropriated from the State General Fund to the Division of State Lands in the State Department of Conservation and Natural Resources for the salary and operating expenses of a Rural Land Use Planner:

For the Fiscal Year 2007-2008 \$61,483

For the Fiscal Year 2008-2009 \$78,887

Sec. 2. Any balance of the sums appropriated by section 1 of this act remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years 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 19, 2008, and September 18, 2009, respectively, 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 19, 2008, and September 18, 2009, respectively.

Sec. 3. The appropriations made by the provisions of this act are intended to finance ongoing expenditures of state agencies and the expenditures financed with those appropriations must be included as base budget expenditures in the proposed budget for the Executive Branch of State Government for the 2009-2011 biennium.

Sec. 4. This act becomes effective on July 1, 2007.

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 487.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 475.

"SUMMARY—Revises provisions relating to water resources in certain counties. (BDR 48-183)"

"AN ACT relating to water; providing for the regional acquisition, development, management and conservation of water resources in certain portions of Washoe County; creating the Northern Nevada Water Authority; setting forth the powers and duties of the Authority; creating the Northern Nevada Water Planning Commission to advise and assist the Authority; repealing provisions relating to regional planning and management of water in certain counties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing general law provides for regional planning and management of water by a water planning commission in counties whose population is 100,000 or more but less than 400,000 (currently Washoe County). Under that general law, a board of county commissioners is required to adopt a comprehensive plan for the supply of municipal and industrial water, quality of water, sanitary sewerage, treatment of sewage, drainage of storm water and control of floods and is required to take action by a two-thirds majority. This general law also provides for a water planning commission, which reports to and advises the board of county commissioners concerning issues relating to water resources. (NRS 540A.010-540A.310)

This bill repeals that general law and creates by special legislation a new structure for regional planning and management of water resources in certain portions of Washoe County based on the unique conditions and circumstances existing in those areas. Under the Nevada Constitution, the Legislature may pass a special or local law if the subject matter of the law does not fall within one of certain enumerated categories and a general law

cannot be made applicable because of special circumstances and conditions. (Nev. Const. Art. 4, §§ 20, 21) Section 5 of this bill specifies the unique conditions and circumstances in these portions of Washoe County that justify special legislation for the purpose of regional planning and management of water resources.

Sections 23 ~~[-]~~ and 24-28 of this bill create the Northern Nevada Water Authority, which is governed by a Board of Trustees consisting of representatives of Washoe County, the cities of Reno and Sparks and various public entities that provide services relating to water and wastewater in Washoe County. Sections 37-42 of this bill create the Northern Nevada Water Planning Commission, which reports to and advises the Board of Trustees of the Authority.

In lieu of creating the Northern Nevada Water Authority pursuant to section 23 of this bill, section 23.5 of this bill authorizes the City of Reno, City of Sparks, Washoe County, Sun Valley General Improvement District and Truckee Meadows Water Authority to create the Northern Nevada Water Authority by cooperative agreement. The cooperative agreement must be entered into and become effective before January 1, 2008.

Sections 35-53 of this bill require the development and adoption of a comprehensive plan for the area over which the Authority has jurisdiction, which must address the supply of municipal and industrial water, quality of water, sanitary sewerage, treatment of sewage, drainage of storm water and control of floods. Sections 29-36 and 54-57 of this bill authorize the Board of Trustees to: (1) subject to certain exceptions, acquire and dispose of, in any manner, water rights, water supplies and related facilities; (2) schedule the delivery of water ~~[resources]~~ supplies held by certain water purveyors before January 1, 2008; (3) establish service territories of those purveyors for new water service provided on and after January 1, 2008; (4) establish, charge and collect various fees for services relating to the provision of water ~~[-]~~ supplies; (5) provide for water conservation by various means; (6) subject to certain exceptions, exercise the power of eminent domain as necessary ~~[-]~~ to acquire private property; and (7) issue bonds and other obligations.

Section 61 of this bill creates a temporary statutory legislative committee to oversee the programs and activities of the Authority.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 533.550 is hereby amended to read as follows:

533.550 1. Notwithstanding any other provision of law, a public body shall not sell or lease for a term of more than 5 years a water right owned by the public body unless the public body, after holding at least one public hearing at which public comment was solicited, has issued written findings that:

(a) The sale or lease of the water right is consistent with the prudent, long-term management of the water resources within the jurisdiction of the public body;

(b) The sale or lease of the water right will not deprive residents and businesses within the jurisdiction of the public body of reasonable access to water resources for growth and development;

(c) The sale or lease of the water right is a reasonable means of promoting development and use of the water right; and

(d) The means by which the water right is sold or leased reasonably ensures that the public body will receive the actual value of the water right or comparable economic benefits.

2. As used in this section, "public body" means the State or a county, city, town, school district or any public agency of this State or its political subdivisions. The term does not include a water district organized pursuant to a special act of the Legislature or a water authority organized as a political subdivision created by a cooperative agreement ~~[]~~ *or created by a special act of the Legislature.*

Sec. 2. NRS 540A.010 is hereby amended to read as follows:

540A.010 As used in this chapter, unless the context otherwise requires:

1. "Board" means the board of county commissioners.

2. ~~["Commission" means the water planning commission created by NRS 540A.080.~~

3. ~~"Comprehensive plan" or "plan" means the plan developed pursuant to NRS 540A.130.~~

4. ~~]~~ "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

Sec. 3. Sections 3 to 58, inclusive, of this Act may be cited as the Northern Nevada Water Authority Act.

Sec. 4. 1. The Legislature hereby finds that:

(a) The provisions of section 22 of this Act describe a hydrologically unique area which is distinguished by the presence of Lake Tahoe and the Truckee River, a water system which is governed by a unique combination of state and federal law, by federal decree and by the Truckee River Operating Agreement; and

(b) The unique hydrological conditions of the area described in section 22 of this Act and the complex legal framework governing the use of water within that area are special circumstances and conditions to which a general law cannot be made applicable and necessitate this special Act which provides for a special structure for the coordinated planning and management of water resources in that area.

2. It is hereby declared as a matter of legislative determination that:

(a) The organization of the Northern Nevada Water Authority having the purposes, powers, rights, privileges and immunities provided in this Act will serve a public use and will promote the general welfare by facilitating unified and cooperative efforts to secure and develop additional water supplies, maintain and cooperatively ~~[manage]~~ establish policies for managing existing water resources ~~[]~~ and water supplies, provide for integrated regional water resources and management of water supplies, provide for

integration of efforts to manage storm water, provide for protection of watersheds and provide for regional conservation efforts, subject to and in accordance with the Truckee River Operating Agreement.

(b) The acquisition, development, management and conservation of regional water ~~[resources]~~ supplies and any associated facilities by the Authority is for a public and governmental purpose and a matter of public necessity.

(c) The ~~[Authority is a body corporate and politic and a municipal corporation, the]~~ geographical boundaries of ~~[which]~~ the Authority are within the area described in section 22 of this Act.

(d) The Authority shall, in carrying out the provisions of this Act:

(1) Make full use of any available resources for sustainability, economic viability and maintenance of environmental values;

(2) Provide for a centralized system of decision making;

(3) Assign service territories using a procedure based upon available resources;

(4) Communicate the decisions and policies of the Authority in an effective manner;

(5) Facilitate the effective coordination of land use and resource planning;

(6) Facilitate the effective and efficient planning, management and operation of facilities; and

(7) Provide for the effective stewardship of water resources, including, without limitation, ensuring the quantity and quality of surface water and groundwater and the control point and nonpoint sources of pollution.

(e) For the accomplishment of the purposes stated in this subsection, the provisions of this Act shall be broadly construed.

Sec. 5. As used in this Act, unless the context otherwise requires, the words and terms defined in sections 6 to 21, inclusive, of this Act have the meanings ascribed to them in those sections.

Sec. 6. "Authority" means the Northern Nevada Water Authority created pursuant to section 23 of this Act.

Sec. 7. "Board of Trustees" or "Board" means the Board of Trustees of the Authority.

Sec. 8. "City of Reno" means the municipal corporation in Washoe County, Nevada, created and existing pursuant to the provisions of chapter 662, Statutes of Nevada 1971, as amended.

Sec. 9. "City of Sparks" means the municipal corporation in Washoe County, Nevada, created and existing pursuant to the provisions of chapter 470, Statutes of Nevada 1975, as amended.

Sec. 10. "Commission" means the Northern Nevada Water Planning Commission created pursuant to section 37 of this Act.

Sec. 11. "Comprehensive Plan" means the plan developed pursuant to sections 35 to 53, inclusive, of this Act.

Sec. 12. "Division" means the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

Sec. 13. "Facilities" means any facility necessary for the beneficial use of water ~~for~~ supplies, including, without limitation, any diversion, dam, reservoir, other water storage facility ~~for~~ for the water supplies, water conveyance, well, pump, treatment facility, storage tank, pipe, turnout and any other facility required to ~~deliver~~ provide water services to the wholesale customers of the Authority ~~or to provide for the conservation of water or enhanced control of floods~~.

Sec. 14. "Planning area" means the area described in section 22 of this Act.

Sec. 15. "Public purveyor" means:

1. The Truckee Meadows Water Authority, or its successor;
2. The Washoe County Department of Water Resources, or its successor;
3. The South Truckee Meadows General Improvement District, or its successor;
4. The Sun Valley General Improvement District, or its successor; or
5. Any other governmental entity engaged in the retail delivery of potable water in the planning area.

Sec. 16. "Truckee Meadows Water Authority" means the political subdivision of the State of Nevada created by a cooperative agreement effective December 4, 2000, pursuant to the provisions of NRS 277.080 to 277.180, inclusive.

Sec. 17. "Truckee River Operating Agreement" means all agreements relating to the implementation of Public Law 101-618, 104 Stat. 3324, as amended, including, without limitation, the Operating Agreement referenced in section 205(a) of Public Law 101-618, 104 Stat. 3324, as amended, whether entered into before, on or after January 1, 2008, to which the Truckee Meadows Water Authority, its predecessor or its successor, if any, is a party.

Sec. 18. "Washoe County" means the county created by and described in NRS 243.340.

Sec. 19. "Water Quality Settlement Agreement" means the Agreement entered into on October 10, ~~1966~~ 1996, by the City of Reno, the City of Sparks, Washoe County, the United States Department of the Interior, the United States Department of Justice, the United States Environmental Protection Agency, the Division and the Pyramid Lake Paiute Tribe, and any agreements entered into to implement that Agreement including, without limitation, any applicable provisions of the Truckee River Operating Agreement.

Sec. 20. "Water right" means any entitlement to the beneficial use of surface water or groundwater supplies, including, without limitation, an entitlement that exists by contract, by interest in real property, by decree or by rights granted or recognized by the State of Nevada, the State of California or any other governmental agency.

Sec. 21. "Water supplies" means surface water, groundwater, wastewater or effluent capable of being put to beneficial use.

Sec. 22. 1. The planning area in which water is to be ~~developed,~~ managed and conserved, for which water is to be acquired and developed and with respect to which plans for its use are to be made, pursuant to this Act, is the entire area within the boundaries of Washoe County except:

(a) Any land within the region defined by NRS 277.200, the Tahoe Regional Planning Compact;

(b) Land located within any Indian reservation or Indian colony which is held in trust by the United States;

(c) Land located within the Gerlach General Improvement District or its successor created pursuant to chapter 318 of NRS; ~~and~~

(d) Land located within the following administrative groundwater basins established by the United States Geological Survey and the Division of Water Resources of the State Department of Conservation and Natural Resources:

(1) Basin 22 (San Emidio Desert);

(2) Basin 23 (Granite Basin); and

(3) Basin 24 (Hualapai Flat); and

(e) Any land excluded by the Board pursuant to subsection 2 and not otherwise included pursuant to subsection 3.

2. The Board may exclude from the planning area any land which it determines is unsuitable for inclusion because of its remoteness from the water supplies acquired, developed, managed and conserved pursuant to this Act or because it lies within a separate hydrologic basin neither affecting nor affected by conditions within the remainder of the planning area.

3. The Board may include within the planning area any land otherwise excluded pursuant to subsection 2 if it finds that the land requires alleviation of the effect of flooding or drainage of storm waters or requires another benefit from planning or management performed in the planning area.

Sec. 23. 1. The Northern Nevada Water Authority is hereby created. The Authority is a body corporate and politic and a municipal corporation.

2. The property and revenues of the Authority, any interest of any creditor therein and any possessory interest in or right to use that property which the Authority may grant are exempt from all state, county and municipal taxation.

Sec. 23.5. The City of Reno, City of Sparks, Washoe County, Sun Valley General Improvement District and Truckee Meadows Water Authority may create the Northern Nevada Water Authority as a joint powers authority by cooperative agreement entered into pursuant to NRS 277.080 to 277.180, inclusive. The South Truckee Meadows General Improvement District may participate in the establishment of the cooperative agreement but is not a mandatory party. If the cooperative agreement is entered into and becomes effective before January 1, 2008:

1. The Authority created by the cooperative agreement shall be deemed to have been created by operation of law pursuant to section 23 of this Act and shall be deemed to be the Authority for purposes of this Act; and

2. The Board of Trustees or similar board created by the cooperative agreement shall be deemed to be the Board of Trustees of the Authority for the purposes of this Act.

Sec. 24. 1. The Authority must be directed and governed by a Board of Trustees composed of the following nine members appointed pursuant to this section:

- (a) Two members of the City Council of the City of Reno;
- (b) Two members of the City Council of the City of Sparks;
- (c) Two members of the Board of County Commissioners of Washoe County;
- (d) One member representing the Truckee Meadows Water Reclamation Facility or its successor;
- (e) One member designated by the Board of Trustees of the South Truckee Meadows General Improvement District or its successor; and
- (f) One member of the Board of Trustees of the Sun Valley General Improvement District or its successor.

2. The City Council of the City of Reno, the City Council of the City of Sparks and the Board of County Commissioners of Washoe County shall each appoint one trustee from their membership for an initial term of 2 years.

3. The Board of Directors of the Truckee Meadows Water Authority or its successor shall appoint from its membership, for initial terms of 3 years:

- (a) One trustee who is a member of the City Council of the City of Reno;
 - (b) One trustee who is a member of the City Council of the City of Sparks;
- and
- (c) One trustee who is a member of the Board of County Commissioners of Washoe County.

➡ The trustees appointed pursuant to this subsection must be different persons than those appointed pursuant to subsection 2.

4. The Board of Trustees of the Sun Valley General Improvement District or its successor and the Board of Trustees of the South Truckee Meadows General Improvement District or its successor shall each appoint one trustee from its membership for an initial term of 3 years.

5. The owners of the Truckee Meadows Water Reclamation Facility or its successor shall jointly appoint one trustee for an initial term of 2 years.

6. Except as otherwise provided in subsection 7, after the initial terms, each trustee who is appointed to the Board serves for a term of 2 years. A trustee may be reappointed.

7. Except for the trustee representing the Truckee Meadows Water Reclamation Facility or its successor, all trustees must be elected officials. No trustee who is an elected official may serve beyond his or her term of office.

8. The position of a trustee must be considered vacated upon his loss of any of the qualifications required for his appointment, and in such event the appointing authority shall appoint a successor to fill the remainder of the unexpired term.

Sec. 25. Each member of the Board shall file with the County Clerk of Washoe County:

1. His oath of office.

2. A corporate surety bond furnished at the Authority's expense, in an amount not to exceed \$5,000, and conditioned for the faithful performance of his duties as a member of the Board.

Sec. 26. 1. The Board shall elect one of its members as Chairman and one of its members as Vice Chairman, and shall elect a Secretary and a Treasurer, who may be members of the Board. The Secretary and the Treasurer may be the same person. The terms of the officers expire on December 31 of each year.

2. The Secretary shall keep audio recordings or transcripts of all meetings of the Board and, in a well-bound book, a record of all of the proceedings of the Board, minutes of all meetings, certificates, contracts, bonds given by employees, and all other acts of the Board. Except as otherwise provided in NRS 241.035, the minute book, audio recordings, transcripts and records must be open to the inspection of all interested persons, at all reasonable times and places.

3. The Treasurer shall keep, in permanent records, strict and accurate accounts of all money received by and disbursed for and on behalf of the Board and the Authority.

Sec. 27. 1. The Board shall meet regularly at a time and in a place to be designated by the Board. The Board shall provide for the calling of a special meeting when action is required before a regular meeting would occur.

2. Except as otherwise provided in *this subsection and* subsection 3, a majority of the members ~~present~~ *of the Board* constitutes a quorum at any meeting. Each motion and resolution of the Board must be adopted by at least a majority of the members present ~~and constituting the quorum~~ at such meeting.

3. If a public purveyor elects not to receive the benefits of a regional capital improvement project provided for pursuant to section 29 of this Act, any member representing the public purveyor on the Board must be excluded from the quorum of the Board for purposes of voting on matters concerning the project.

Sec. 28. The Authority is a public employer within the meaning of NRS 286.070, and the provisions of chapter 286 of NRS apply to the Authority and its employees.

Sec. 29. The Authority may do all things necessary to accomplish the purposes of this Act. The Authority has perpetual succession and, except as

otherwise provided in sections 30, 32 and 34 of this Act, has the following powers to:

1. Sue and be sued.
2. Acquire, appropriate, perfect, possess, use, lease, sell, exchange, encumber and dispose of any interest in water rights and water supplies and any real or personal property or interest therein, within or without the State of Nevada, for any of the purposes provided in this section.
3. Acquire, finance, construct, operate, maintain and replace facilities and to dispose of such facilities.
4. Develop and implement projects with respect to the acquisition, development, treatment, scheduling of delivery, storage, transportation and conservation of water supplies.
5. Acquire an interest of any nature in, and to finance, construct, operate, maintain, replace, acquire and construct additions and improvements to, any facilities necessary or convenient for the acquisition, development, conveyance, treatment, management and conservation of water supplies, and to dispose of such facilities.
6. Enter into agreements with Washoe County, the cities of Reno and Sparks, and any public purveyor:
 - (a) To acquire, by lease, gift, purchase or otherwise, or to manage or cooperatively administer any water supplies, water ~~resources~~ rights or regional water conveyance and treatment facilities of such entity; and
 - (b) For the wholesale delivery of water.
7. Prepare, adopt, update and oversee the implementation of the Comprehensive Plan pursuant to sections 35 to 53, inclusive, of this Act.
8. Establish a mechanism for scheduling the delivery of water ~~resources~~ supplies held by public purveyors ~~before January 1, 2008,~~ to maximize the yield of regional water supplies and facilitate the cooperative administration of regional water conveyance and treatment facilities for the benefit of the public purveyors.
9. Designate the service territories of public purveyors for customers seeking water service on and after January 1, 2008, pursuant to section 31 of this Act.
10. Establish and charge rates, tolls, rental fees, hookup fees, impact fees, connection charges, commodity charges, fees for a commitment by a public purveyor to provide water supplies held by the Authority to a person, and other fees or charges on users of water supplies held by the Authority, ~~for any public purveyor within the planning area,~~ and collect revenues from the use of ~~its~~ water supplies of the Authority, and enter into agreements with wholesale customers for the payment of fees, rates and other charges.
11. Prepare, adopt, update and oversee the implementation of a water conservation plan for the use of municipal, industrial and domestic water ~~resources~~ supplies within the planning area, and enter into water conservation agreements with water purveyors and local governmental entities.

12. Study and recommend to the Board of County Commissioners of Washoe County, the City Council of the City of Reno and the City Council of the City of Sparks ordinances for the implementation of a water conservation plan adopted pursuant to subsection 11 and the Comprehensive Plan.

13. Deliver or contract with other parties to deliver available water supplies to public purveyors on a wholesale basis.

14. Prepare, update and implement plans for capital improvements of the Authority.

15. Assess public purveyors directly for any costs, including, without limitation, administrative costs, arising from regional capital improvement projects related to the acquisition and delivery of water supplies. If a public purveyor elects not to receive the benefits of such a regional capital improvement project, any assessment for the project must not be imposed against the public purveyor for that project. If a public purveyor that elected not to participate in a capital improvement project receives direct benefits from that project, the Board may assess the public purveyor for those benefits.

16. Contract with public purveyors or any other public entity for the provision of services to or by the Authority and, in the performance of its functions, use the officers, agents, employees, services, facilities, records and equipment of any public purveyor, Washoe County, the City of Reno or the City of Sparks, with the consent of the respective public purveyor or governmental entity, and subject to such terms and conditions as may be agreed upon.

17. Employ or contract with such persons as it deems necessary and hire and retain officers, agents and employees, including fiscal advisers, engineers, attorneys or other professional or specialized personnel.

18. Sell, lease or otherwise dispose of any real property in such manner and upon such terms and conditions as the Board deems proper and in the best interests of the Authority consistent with applicable law.

19. Exercise the power of eminent domain in the manner provided by law for the condemnation of private property for public use to take any private property within the planning area necessary to the exercise of its powers ~~and~~, except that the power of eminent domain may not be used to take:

(a) Any water right; or

(b) Any property of a public purveyor without the consent of that public purveyor.

20. Apply directly to the proper federal, state, county and municipal officials and agencies or to any other source, public or private, for loans, grants, guarantees or seek other financial assistance in aid of acquiring, developing, delivering or managing water ~~resources~~ supplies and associated facilities owned, operated or managed by the Authority or which the Authority determines is necessary or convenient for the exercise of any of its powers, and accept the same.

21. Participate with relevant agencies of the United States, the State of Nevada and other ~~[governmental]~~ entities on issues concerning the supply of water.

22. Issue revenue and other bonds, notes, and other obligations and incur liability for the purposes and in accordance with the procedure and requirements set forth in this Act, NRS 350.087 to 350.093, inclusive, 350.350 to 350.490, inclusive, and 377B.010 to 377B.210, inclusive, and as otherwise permitted by law.

23. Adopt such rules and regulations for the conduct of the affairs of the Authority or of the Board as the Board may deem necessary or desirable.

24. Perform such other functions conferred on the Authority in this Act.

Sec. 30. Except as otherwise authorized by the Board ~~[, established in]~~ and except with respect to water supplies available to the Truckee Meadows Water Authority under or acquired by it for use in connection with the Truckee River Operating Agreement or provided in the Water Quality Settlement Agreement, on and after January 1, 2008, any rights to water supplies required for use by any public purveyor may only be acquired by the Board.

Sec. 31. The Board ~~[shall]~~ may establish the service territories within the planning area in which the public purveyors and all systems for the supply of water which are controlled or operated by the public purveyors will, on and after January 1, 2008, provide new retail or wholesale water services ~~for provide existing retail or wholesale water services]~~ to new customers. The provisions of this section do not affect the ability of public purveyors to continue to provide retail and wholesale water services to customers who received that type of service before January 1, 2008, or pursuant to agreements for water service existing before January 1, 2008. In determining the boundaries of such service territories, the Board shall:

1. ~~[Ensure that water service is provided]~~ Plan for the delivery of water at the lowest reasonable cost, considering all the facilities, improvement and operations required to provide that water ~~[service]~~ as measured by the net present value of those facilities, improvements and operations existing at the time of the determination, generally using current dollars;

2. ~~[Ensure]~~ Seek to ensure that existing or future customers are not affected inequitably; ~~[and]~~

3. ~~[Provide]~~ Seek to provide for the most effective management, development and integration of systems for the efficient use of water ~~[resources]~~ supplies and associated facilities; and

4. Consider:

(a) Any specific planning conducted by public purveyors before January 1, 2008, for existing or new customers;

(b) The topography of the service territories and the readiness and ability of public purveyors to serve customers with existing facilities;

(c) Any policies for land use that affect the service territories; and

(d) The rate of growth within the service territories projected over a reasonable period.

Sec. 32. The Authority shall not:

1. Control the use or impair the ownership of water supplies, water rights or facilities owned by any public purveyor within that public purveyor's own retail service territory, other than scheduling the delivery of such water supplies or facilities to maximize the yield of such water supplies ~~[-] or facilities.~~

2. Fix the rates or rules of a public purveyor for the ~~retail~~ delivery of water by the public purveyor, acquire, without the consent of the public purveyor, ownership of any water supplies, water rights, facilities or other assets of a public purveyor, ~~[which were acquired by the public purveyor before January 1, 2008,]~~ or take any action which will impair any bond obligations of a public purveyor existing before January 1, 2008.

3. Provide wholesale water services to a public purveyor if:

(a) Wholesale water services are already provided by a public purveyor;
or

(b) A public purveyor that has additional unused capacity is willing and able to provide wholesale water services.

↳ unless otherwise provided by an agreement between the public purveyor and wholesale customer.

Sec. 33. The Board has and may exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this Act. Such specific powers are not a limitation upon any power necessary or appropriate to carry out the purposes and intent of this Act.

Sec. 34. Notwithstanding the provisions of this Act, the Truckee Meadows Water Authority or its successor is and shall remain the entity with the sole and exclusive power and authority to negotiate and execute and to implement its obligations under that Agreement, as the successor in interest to Sierra Pacific Power Company. All water supplies provided or available to the Truckee Meadows Water Authority or its successor pursuant to the Truckee River Operating Agreement must be considered as acquired before January 1, 2008, and must be managed, scheduled and operated in accordance with that Agreement. Nothing in this Act alters the rights and obligations of the Water Quality Settlement Agreement, and all water supplies must be managed, scheduled and operated in accordance with the Water Quality Settlement Agreement.

Sec. 35. The Board may, upon the recommendation of the Commission:

1. Adopt and revise the Comprehensive Plan;
2. Develop methods for conserving existing water supplies which are consistent with any other plans required by law;
3. Develop methods of collecting and treating sewage to protect and conserve water supplies;
4. Provide information to members of the public regarding present and potential uses of water; and

5. Make recommendations concerning the management and use of water within the planning area to:

- (a) The governing body and the Planning Commission of Washoe County and the cities of Reno and Sparks;
- (b) The Governing Board for Regional Planning and the Regional Planning Commission established in Washoe County pursuant to NRS 278.0264 and 278.0262, respectively;
- (c) The State Engineer;
- (d) The Federal Government; and
- (e) Such other entities as the Board deems appropriate.

Sec. 36. 1. To fund the planning and administration required by this Act and the implementation of the Comprehensive Plan, the Board may impose a fee at a rate not to exceed 1.5 percent of the amount otherwise billed, to be collected by each public purveyor and supplier of water from customers within the planning area. If the Board determines to impose such a fee, the Board must impose the fee by resolution after holding a hearing.

2. A public purveyor or supplier of water must state separately on its billings to customers the amount charged as a result of any fee imposed pursuant to subsection 1.

Sec. 37. 1. The Northern Nevada Water Planning Commission is hereby created in the planning area. The Commission must consist of ~~at least 11~~ the following voting members who are residents of Nevada: ~~appointed as follows:~~

- (a) The Director of Public Works for the City of Reno, or his designee;
- (b) The Director of Public Works for the City of Sparks, or his designee;
- (c) The Director of Water Resources for Washoe County, or his designee;
- (d) The General Manager of the South Truckee Meadows General Improvement District or its successor, or his designee;
- (e) The General Manager of the Sun Valley General Improvement District or its successor, or his designee;
- (f) The General Manager of the Truckee Meadows Water Authority or its successor, or his designee;
- (g) The General Manager of the Truckee Meadows Wastewater Reclamation Facility or its successor, or his designee;
- (h) One member appointed by the governing body of the Indian reservation which is the largest in area in the planning area, if the planning area contains an Indian reservation, or, if there is not an Indian reservation located within the planning area or the governing body of the reservation does not appoint a member, one member appointed by the Board to represent the public at large;
- (i) One member of the public at large appointed by the Board to represent environmental, biological, conservation or public concerns;
- (j) One member appointed by the Board to represent owners of domestic wells;

(k) One member appointed by the Board of Supervisors of the Washoe-County Water Conservation District or its successor; and

(l) Such additional members with expertise in any area that the Board determines is necessary, appointed by the Board.

➔ The *terms of the ex officio* members ~~[appointed pursuant to]~~ *described in* paragraphs (a) ~~[(b) and (c) serve initial terms of 4 years.]~~ *to (g), inclusive, are concurrent with the employment of those members in the respective positions specified in those paragraphs.* The members appointed pursuant to paragraphs ~~[(d), (f) and]~~ (h) *to (l), inclusive, serve initial terms of [3] 2 years.* ~~[The members appointed pursuant to paragraphs (e), (g), (i), (j) and (k) serve initial terms of 2 years.]~~

2. After the initial terms, the term of office of each member *appointed pursuant to paragraphs (h) to (l), inclusive, of subsection 1* is 3 years. A member may be reappointed. A vacancy must be filled for the unexpired term by the appointing entity.

Sec. 38. In addition to the voting members, the commission includes the following nonvoting members:

1. One member appointed by the Public Utilities Commission of Nevada;
2. One member appointed by the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General;
3. One member appointed by the Administrator of the Division;
4. One member appointed by the State Engineer;
5. One member appointed by the Chief of the Water Planning Section of the Division of Water Resources of the State Department of Conservation and Natural Resources;
6. One member appointed by the board of directors of the water conservancy district which is largest in area in the planning area;
7. One member appointed by the county or district board of health;
8. One member of the public at large appointed by the affirmative vote of a majority of the voting members; and
9. Additional members with expertise in an area that the majority of the voting members determines is necessary, appointed by the affirmative vote of a majority of the voting members.

Sec. 39. The members of the Commission appointed pursuant to paragraphs (h) to (l), inclusive, of subsection 1 of section 37 of this Act or any alternative designees appointed pursuant to paragraphs (a) to (g), inclusive, of subsection 1 of section 37 of this Act may not hold any elective governmental office but may be engaged or employed in private enterprise or be employees of state or local government, and each member must be qualified pursuant to at least one of the following subsections:

1. A professional engineer licensed pursuant to the provisions of chapter 625 of NRS;
2. Experienced in comprehensive planning, natural resources or environmental protection;
3. A specialist in hydrologic science;

4. Experienced in law, management or planning related to water;
5. Experienced in municipal finance or resource economics;
6. Experienced in construction, planning or operation of facilities or systems for supplying or treating water, for collecting or treating sewage, for drainage of storm water or for control of floods; or
7. Knowledgeable in the areas of water conservation, biology, natural systems, water quality and water management.

Sec. 40. The Commission shall establish a schedule for the selection of its Chairman for a term of 1 year, in rotation, from among the members.

Sec. 41. 1. The Commission shall meet at the call of the Chairman or any three members. The Commission shall establish a schedule of regular meetings and provide for the calling of a special meeting when action is required before a regular meeting would occur.

2. A quorum consists of a majority of the members. The affirmative vote of a majority of the members present is required to take action, unless a larger proportion is required by this Act for a particular action.

3. A member of the Commission is not entitled to compensation for his services as a member.

Sec. 42. 1. The Commission shall develop, and as necessary recommend revisions to, a Comprehensive Plan for the planning area covering the supply of municipal and industrial water, quality of water, sanitary sewerage, treatment of sewage, drainage of storm waters and control of floods. The initial Comprehensive Plan must be developed on or before January 1, 2011. The provisions of the comprehensive plan developed and revised pursuant to the former provisions of NRS 540A.130 before January 1, 2008, remain in effect until the Board adopts the initial Comprehensive Plan.

2. The Comprehensive Plan must consist of written text, appropriate maps and goals and policies to deal with current and future problems affecting the planning area as a whole with respect to the subjects of the Comprehensive Plan set forth in subsection 1. In developing the Comprehensive Plan, the Commission shall consider any water resource plan developed by a public purveyor and, to the extent feasible and consistent with the objectives of the Authority, seek to incorporate such a plan.

3. The Comprehensive Plan must:

(a) Describe the problems and needs of the planning area relating to the subjects of the Comprehensive Plan set forth in subsection 1;

(b) Identify the providers of services relating to the subjects of the Comprehensive Plan within the planning area and the area within which each provides service, including service territories of public utilities and public purveyors;

(c) Identify alternatives to reduce demand or increase water supply;

(d) Identify and provide for existing and future sources of water needed to meet the present or future needs of the planning area, including, without

limitation, existing and future demand for water within each public purveyor's service territory;

(e) Define priorities and general location for additional major facilities needed to provide services relating to the subjects of the Comprehensive Plan set forth in subsection 1;

(f) Describe programs to mitigate drought, achieve conservation of water, protect wellheads and otherwise manage water;

(g) Provide for the development, acquisition and stabilization of surface water and groundwater supply in the planning area, including policies regarding dedication of privately held water resources by applicants for water service;

(h) Provide for the oversight of, protection of, regional management of and maximization of efficient conjunctive use of, the supply of surface water and groundwater and major water resource facilities in the planning area, including use of reclaimed water and recharge and recovery or underground storage and recovery of water, and the scheduling of the delivery of water supplies held by public purveyors;

(i) Identify and provide for the extent to which reuse or effluent water ~~[available to each public purveyor]~~ is to be put to beneficial use or discharged, directly or indirectly, into the Truckee River;

(j) Provide for the regional conservation and prevention of long-term depletion of surface water and groundwater resources in the planning area in support of the Comprehensive Plan;

(k) Provide for adequate supplies of municipal and industrial water, quality of water, sanitary sewerage, treatment of sewage, drainage of storm waters and control of floods within the planning area;

(l) Identify and provide for the peaking capacity required for delivery of water supplies by the Authority to each public purveyor, if applicable, and the means by which such requirements will be met; ~~and~~

(m) Include a water budget identifying water supplies available to the Authority and separately to each public purveyor from all sources ~~and~~; and

(n) Seek to make full use of any unused capacity of facilities that are owned by public purveyors, if such use is otherwise economical and efficient.

4. The Commission shall make recommendations to the Board for the adoption of, and any revisions to, the Comprehensive Plan.

Sec. 43. The Comprehensive Plan must include the following elements:

1. Quality of surface water, which must include, without limitation:

(a) Compliance with standards of quality for bodies of water;

(b) Locations and capacities of plants to treat wastewater;

(c) Intended quantity and quality of discharge from those plants and its reuse, service areas and interceptors; and

(d) Programs to attain protection from pollution by both concentrated and diffuse sources.

2. Quality of groundwater, which must include, without limitation:

(a) Compliance with standards of quality for hydrographic basins and septic tanks;

(b) Capacities for withdrawal of water from hydrographic basins;

(c) Programs to protect wellheads;

(d) Programs to clean up contaminated groundwater from hydrographic basins; and

(e) Programs to attain protection from pollution by both concentrated and diffuse sources.

3. Supply of surface water, which must include, without limitation:

(a) Existing and planned sources of surface water;

(b) Existing and planned uses for all surface water, including municipal and industrial uses, requirements for return flow, reserves for drought and future growth, uses to improve the quality of water, uses to provide habitat and uses in conjunction with underground water;

(c) Major facilities to convey and store surface water;

(d) Standards, service areas, rates of flow and reserves for storage; and

(e) Facilities to treat surface water.

4. Supply of underground water, which must include, without limitation:

(a) Existing and planned sources of underground water;

(b) Existing and planned uses for all underground water, including municipal and industrial uses, maintenance of minimum groundwater level and the need for recharge, reserves for drought and future growth, uses to improve the quality of water, uses to provide habitat and uses in conjunction with surface water;

(c) Major facilities to extract and convey underground water;

(d) Compliance with standards for treated and nontreated water, services areas, rates of flow and reserves for storage; and

(e) Facilities to treat and store underground water.

5. Control of floods and drainage of storm water, as it relates to surface water, which must include, without limitation:

(a) Minimum standards of design for controlling floods in the planning area;

(b) Nonstructural alternatives and standards for facilities to control floods in the planning area and single drainage basins;

(c) Regional facilities to control floods; and

(d) Generalized facilities and standards of design for single drainage basins.

6. Control of floods and drainage of storm water, as it relates to underground water, which must include, without limitation:

(a) Groundwater level and capacity for additional storage of water underground as a means of mitigating floods;

(b) Location and capacities of major facilities for controlling floods which utilize storage of water underground to mitigate floods; and

(c) Standards of design for devices to infiltrate storm water and other minor facilities for controlling floods which utilize storage of water underground to mitigate floods.

7. Cost and financing, which must include an estimate of the cost of each major facility, source of water or other requirement of the Comprehensive Plan and an analysis of alternatives for financing and funding the facility, source or other requirement, or alternatives thereto, as well as the effect of the funding alternatives on other facilities included in the Comprehensive Plan. The estimate of cost must state the financial impact on persons within the planning area, including, without limitation, all direct and indirect costs of connecting to a system for supplying water, if applicable.

8. Recommendations for developing and implementing consistent policies of, and among, the Authority and public purveyors concerning regional drought reserve standards, developer costs, impact fees, ~~and~~ dedication of water rights ~~and standards for the drainage of water.~~

9. Evaluation and recommendations regarding the consolidation of ~~the retail distribution systems and facilities of~~ public purveyors in the planning area, which must include costs and benefits of consolidation, the feasibility of various consolidation options, analysis of water ~~resources,~~ supplies, operations, facilities, human resources, assets, liabilities, bond covenants, and legal and financial impediments to consolidation and methods, if any, for addressing any such impediments.

Sec. 44. 1. The Comprehensive Plan must be consistent with and carry out the provisions of the Comprehensive Regional Plan adopted by the Governing Board for Regional Planning in Washoe County pursuant to NRS 278.0276 and the master plans and any other plans for the use of land which are adopted by governmental entities within the planning area.

2. The Comprehensive Plan must be consistent with and carry out or support the carrying out of all aspects of the Truckee River Operating Agreement ~~and Water Quality Settlement Agreement.~~

3. The Comprehensive Plan must be consistent with ~~any plan or recommendation of the State Engineer concerning the development, conservation and use of water resources existing~~ the state water plan that is in effect at the time that the Comprehensive Plan is adopted.

Sec. 45. In developing the Comprehensive Plan, the Commission shall:

1. Receive and consider information from public purveyors, public utilities and other entities supplying municipal and industrial water within the planning area;

2. Receive and consider information from entities providing sanitary sewerage, treatment of sewage, drainage of storm water and control of floods within the planning area;

3. Receive and consider information from entities concerned with water quality within the planning area;

4. Review and consider any plan or recommendation of the State Engineer concerning the development, conservation and use of water

resources, existing water conservation plans, the regional plan and any master plan that has been adopted pursuant to the provisions of chapter 278 of NRS and any similar plan of a local government which applies to any area in the planning area, and may seek and consider the advice of each local planning commission and any other affected entity;

5. Coordinate and make consistent the elements of the Comprehensive Plan set forth in section 43 of this Act;

6. Consider existing applicable laws;

7. Recognize and coordinate the needs of the incorporated areas of the planning area with the needs of the unincorporated areas of the planning area; and

8. Receive and consider information from other interested persons.

Sec. 46. 1. Before submitting the Comprehensive Plan to the Board, the Commission shall hold at least one public hearing on the Comprehensive Plan within the planning area.

2. Before acting on a proposed amendment to the adopted Comprehensive Plan, the Commission shall hold at least one public hearing on the proposed amendment at a location in the planning area relevant to the proposed amendment.

3. Notice of the time and place of each hearing must be given by publication in a newspaper of general circulation in the planning area at least 10 days before the day of the hearing. If there is more than one newspaper of general circulation in the planning area, notice must be given by publication in at least two such newspapers.

4. The decision to submit the proposed Comprehensive Plan or any amendment to the adopted Comprehensive Plan to the Board must be made by resolution of the Commission carried by the affirmative votes of a majority of the total members of the Commission. The resolution must refer expressly to the text, maps and descriptive or other matter intended by the Commission to constitute the Comprehensive Plan or an amendment thereto.

Sec. 47. 1. An attested copy of the proposed Comprehensive Plan or an amendment thereto must be submitted by the Commission to the Board.

2. Before taking any action on the proposed Comprehensive Plan or an amendment thereto, the Board shall convene a public hearing.

3. Notice of the hearing must be given at least 10 days before the date of the hearing. The notice must include, without limitation:

(a) A statement of the time, place and nature of the hearing;

(b) A statement of the legal authority under which the hearing is to be held; and

(c) A reference to the particular sections of any applicable laws.

4. Not less than 30 days before the hearing, the Board shall cause to be placed a copy of the proposed Comprehensive Plan or amendment thereto in the office of the County Clerk of Washoe County and publish notice that the Comprehensive Plan or amendment thereto is available for public inspection.

5. Each notice required by this section must be published in a newspaper of general circulation in the planning area. If there is more than one newspaper of general circulation in the planning area, notice must be given by publication in at least two such newspapers. The notice must be a display advertisement not less than 3 by 5 inches in size.

Sec. 48. 1. The Board shall not change or add to the proposed Comprehensive Plan or an amendment thereto as submitted by the Commission until it has submitted the substance of the proposed change or addition to the Commission in writing with its reasons for the change or addition.

2. The Commission shall, if it agrees to the change or addition, revise the submitted Comprehensive Plan or amendment thereto accordingly. If the Commission does not agree, it shall report to the Board in writing its reason for disagreeing and any alternative proposal.

3. In either case, the Commission shall present its revision or report to the Board within 40 days after the Board's change or amendment is submitted to the Commission.

4. If the Commission does not agree with the proposed change or addition and the Board refuses to rescind its proposal or to accept an alternative proposal of the Commission, the Commission shall revise the originally submitted Comprehensive Plan or amendment thereto to incorporate the change or addition proposed by the Board.

Sec. 49. 1. After adoption by the Board, the Comprehensive Plan or an amendment thereto must be submitted for review to the Regional Planning Commission in Washoe County established pursuant to NRS 278.0262. The Regional Planning Commission shall review the Comprehensive Plan or amendment thereto only for ~~conformance~~ consistency with the Comprehensive Regional Plan adopted pursuant to NRS 278.0276 and the master plans and any other plans for the use of land which are adopted by local governmental entities within the planning area. The Regional Planning Commission shall review the Comprehensive Plan or amendment thereto at one or more public hearings. Notice of the time and place of a hearing must be given in accordance with NRS 278.0276.

2. If the Regional Planning Commission fails to make a determination within 40 days after the submission of the Comprehensive Plan or amendment thereto, the Comprehensive Plan or amendment thereto shall be deemed to ~~conform to~~ be consistent with the Comprehensive Regional Plan.

3. If the Regional Planning Commission determines that the Comprehensive Plan or amendment thereto ~~does not conform to~~ is not consistent with the Comprehensive Regional Plan, it shall state its reasons why the Comprehensive Plan or amendment thereto ~~does not conform~~ is not consistent. Unless an appeal is filed pursuant to section 50 of this Act, the Commission and the Board shall respectively develop and adopt, in accordance with sections 45 to 48, inclusive, of this Act, proposed revisions to the Comprehensive Plan or amendment thereto, and the Board shall

resubmit the revised Comprehensive Plan or amendment thereto to the Regional Planning Commission.

Sec. 50. 1. An affected entity that disagrees with the reasons given by the Regional Planning Commission for its determination of ~~[conformance or nonconformance]~~ *consistency or inconsistency* pursuant to section 49 of this Act may file an appeal with the Governing Board for Regional Planning in Washoe County not later than 10 days after the determination of ~~[conformance or nonconformance]~~ *consistency or inconsistency*. As used in this subsection, "affected entity" means Washoe County, the City of Reno, the City of Sparks or any other governmental entity or public purveyor or a public utility providing services relating to the subject matter of the Comprehensive Plan within the planning area.

2. Within 45 days after its receipt of an appeal, the Governing Board for Regional Planning shall consider the appeal and issue its decision. If the decision of the Governing Board for Regional Planning is that the Comprehensive Plan or amendment thereto ~~[does not conform to]~~ *is not consistent with* the Comprehensive Regional Plan, it shall state its reasons why the Comprehensive Plan or amendment thereto ~~[does not conform.]~~ *is not consistent.* The Commission and the Board shall then respectively develop and adopt, in accordance with sections 45 to 48, inclusive, of this Act, proposed revisions to the Comprehensive Plan or amendment thereto, and the Board shall resubmit the revised Comprehensive Plan or amendment thereto to the Regional Planning Commission for review.

Sec. 51. The adopted Comprehensive Plan must be reviewed by the Commission on a schedule to be established by the Board, which must at least provide for review of the Comprehensive Plan within 5 years after its adoption and at least every 5 years thereafter. After each review, the Commission shall submit to the Board any proposed amendment to the Comprehensive Plan or report that there are no amendments.

Sec. 52. 1. Except as otherwise provided in subsection 2, on and after the date the initial Comprehensive Plan is finally approved, no facility intended to provide a service relating to a subject of the Comprehensive Plan within the planning area may be constructed, if the facility is of such a kind or size as to affect the working of the Comprehensive Plan as distinct from providing normal service to customers, unless it is included in the Comprehensive Plan or has been reviewed and approved as provided in subsection 3.

2. The Comprehensive Plan may allow for the construction of facilities not included within the Comprehensive Plan in order to meet an emergency as defined in the Comprehensive Plan.

3. A proposal to construct a facility described in subsection 1 within the planning area must be submitted to the Commission for review and recommendation to the Board concerning the conformance of the proposal with the Comprehensive Plan. The review must include an evaluation of stranded costs, the need for the facility within the planning area and the

impact that construction of the facility will have on any potential consolidation of public purveyors. If the Commission fails to make such a recommendation within 30 days after the proposal is submitted to it, the Commission shall be deemed to have made a recommendation that the proposal conforms to the Comprehensive Plan. The Board shall consider the recommendation of the Commission and approve or disapprove the proposal as conforming to the Comprehensive Plan. Any disapproval must be accompanied by recommended actions to be taken to make the proposal conform to the Comprehensive Plan. The Commission and the Board shall limit their review to the substance and content of the Comprehensive Plan and shall not consider the merits or deficiencies of a proposal in a manner other than is necessary to enable them to make a determination concerning conformance with the Comprehensive Plan.

4. The Board shall provide, by resolution after holding a hearing, for the Commission or its staff to make final decisions concerning the conformance of classes of proposed facilities to the Comprehensive Plan. A resolution adopted pursuant to this section must provide an opportunity for the applicant or a protestant to appeal from a decision of the Commission or its staff to the Board.

Sec. 53. Any water right or source of water belonging to a governmental entity within the planning area must be used in accordance with the Comprehensive Plan.

Sec. 54. The Board may issue bonds for the purpose of acquiring, managing, delivering or improving water supplies, and the bonds must be made payable out of the revenues of the Authority, including those derived from the sale, delivery or operation of such water supplies or the furnishing of services.

Sec. 55. 1. Except as otherwise provided in this Act, the Board, in accordance with NRS 350.500 to 350.720, inclusive, may issue on its behalf and in its name at any time or from time to time, as the Board may determine, revenue bonds and other securities constituting special obligations and payable from net revenues, but excluding the proceeds of any general ad valorem property taxes, which payment is secured by a pledge of and lien on such net revenues.

2. The provisions of this Act do not prevent the Authority from funding, refunding or reissuing any outstanding securities of the Authority of a type designated in subsection 1 as provided in NRS 350.500 to 350.720, inclusive.

3. Revenue bonds may be sold at public sale as provided in NRS 350.500 to 350.720, inclusive, or sold at private sale.

Sec. 56. The Board may provide for the appointment of a paying or fiscal agency within or without the State, in relation to any general obligation or revenue bonds of the Authority, which must be a bank possessing trust powers and which shall act in a fiduciary capacity and not as a depository, and may:

1. Provide for the powers, duties, functions and compensation of the agent.

2. Limit the liabilities of the agent.

3. Prescribe a method for his resignation and removal, and the merger or consolidation of agents.

4. Prescribe a method for the appointment of a successor agent and the transfer of rights and properties to the successor.

Sec. 57. 1. Except as otherwise provided in subsection 2, bonds issued pursuant to this Act, and the income therefrom, are exempt from all state, county and municipal taxation.

2. The provisions of subsection 1 do not apply to the tax on estates imposed pursuant to the provisions of chapter 375A of NRS or the tax on generation-skipping transfers imposed pursuant to the provisions of chapter 375B of NRS.

3. All public officers and bodies of the State, municipal corporations, political subdivisions, all insurance companies and associations, all savings banks and savings institutions, including savings and loan associations, all executors, administrators, guardians, trustees and all other fiduciaries in the State may legally invest funds within their control in bonds of the Authority.

Sec. 58. The provisions of this Act do not supersede the authority granted by law to the State Engineer, the State Environmental Commission and the State Department of Conservation and Natural Resources.

Sec. 59. NRS 540A.060, 540A.070, 40A.080, 540A.090, 540A.100, 540A.110, 540A.120, 540A.130, 540A.140, 540A.150, 540A.160, 540A.170, 540A.180, 540A.190, 540A.200, 540A.210, 540A.220, 540A.230, 540A.240, 540A.290, 540A.300 and 540A.310 are hereby repealed.

Sec. 60. The fee authorized pursuant to NRS 540A.070 must remain in effect and be collected by Washoe County and transferred to the Northern Nevada Water Authority until such time as the Board of Trustees of the Authority adopts a resolution pursuant to section 36 of this Act imposing a new fee.

Sec. 61. 1. There is hereby created the Legislative Committee to Oversee the Northern Nevada Water Authority created pursuant to section 23 of this act. The Committee must:

(a) Consist of six Legislators as follows:

(1) One member of the Senate appointed by the Chairman of the Senate Committee on Natural Resources;

(2) One member of the Assembly appointed by the Chairman of the Assembly Committee on Natural Resources, Agriculture, and Mining;

(3) One member of the Senate appointed by the Majority Leader of the Senate;

(4) One member of the Senate appointed by the Minority Leader of the Senate;

(5) One member of the Assembly appointed by the Speaker of the Assembly; and

(6) One member of the Assembly appointed by the Minority Leader of the Assembly.

(b) Insofar as practicable, represent the various areas within the planning area.

(c) Elect a Chairman and a Vice Chairman from among its members. The Chairman must be elected from one House of the Legislature and the Vice Chairman from the other House. After the initial selection of a Chairman and a Vice Chairman, each of those officers holds office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Committee shall select a replacement for the remainder of the unexpired term.

2. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve until the next session of the Legislature convenes.

3. Vacancies on the Committee must be filled in the same manner as original appointments.

4. The members of the Committee shall meet throughout each year at the times and places specified by a call of the Chairman or a majority of the Committee.

5. The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording Secretary.

6. The Committee shall prescribe regulations for its own management and government.

7. Except as otherwise provided in subsection 8, four members of the Committee constitute a quorum, and a quorum may exercise all the powers conferred on the Committee.

8. Any recommended legislation proposed by the Committee must be approved by a majority of the members of the Senate and by a majority of the members of the Assembly appointed to the Committee.

9. Except during a regular or special session of the Legislature, the members of the Committee are entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session, the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218.2207 for each day or portion of a day of attendance at a meeting of the Committee and while engaged in the business of the Committee. The salaries and expenses paid pursuant to this subsection and the expenses of the Committee must be paid from the Legislative Fund.

10. The Committee shall review the programs and activities of the Northern Nevada Water Authority. The review must include an analysis of potential consolidation of the retail distribution systems and facilities of all public purveyors in the planning area, which is described in section 22 of this Act.

11. The Committee may:

(a) Conduct investigations and hold hearings in connection with its powers pursuant to this section.

(b) Direct the Legislative Counsel Bureau to assist in the study of issues related to oversight of the Northern Nevada Water Authority.

12. In conducting the investigations and hearings of the Committee:

(a) The Secretary of the Committee or, in his absence, any member of the Committee may administer oaths.

(b) The Secretary or Chairman of the Committee may cause the deposition of witnesses, residing either within or outside of the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chairman of the Committee may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

13. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena issued pursuant to this section, the Chairman of the Committee may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the Committee pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Committee which is named in the subpoena, or has refused to answer questions propounded to him,

➤ and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Committee.

14. Upon a petition pursuant to subsection 13, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why he has not attended or testified or produced the books or papers before the Committee. A certified copy of the order must be served upon the witness.

15. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness appear before the Committee at the time and place fixed in the order and testify or produce the required books or papers. Failure to obey the order constitutes contempt of court.

16. Each witness who appears before the Committee by its order, except a state officer or employee, is entitled to receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Secretary and Chairman of the Committee.

17. On or before January 15 of each odd-numbered year, the Committee shall submit to the Director of the Legislative Counsel Bureau for transmittal

to the Legislature a report concerning the review conducted pursuant to subsection 10 and any recommendations for legislation.

Sec. 62. 1. This act becomes effective on January 1, 2008.

2. Section 23.5 of this act expires by limitation on January 1, 2008, if the cooperative agreement specified in that section has not been entered into and has not become effective before that date.

3. Sections 24, 25 and 26 of this act expire by limitation on January 1, 2008, if the cooperative agreement specified in section 23.5 of this act has been entered into and has become effective before that date.

4. Section 61 of this act expires by limitation on July 1, 2011.

LEADLINES OF REPEALED SECTIONS

540A.060 Conservation; sewerage; public information; recommendations concerning management and use of water.

540A.070 Imposition and collection of fee for planning and administration of chapter and implementation of certain plans.

540A.080 Creation; voting membership; terms of members; vacancies.

540A.090 Nonvoting membership.

540A.100 Qualifications of members.

540A.110 Selection of chairman.

540A.120 Meetings; quorum; compensation of members.

540A.130 Development and revision; contents.

540A.140 Required elements.

540A.150 Consistency with other plans and federal law.

540A.160 Consideration of information from other entities and persons; review of other plans; coordination.

540A.170 Public hearings; adoption of resolution for submission of plan or amendment.

540A.180 Submission of plan or amendment to board; board required to hold public hearing; notice; copy of proposed plan or amendment to be available for public inspection.

540A.190 Changes and additions.

540A.200 Review by regional planning commission; effect of nonconformity with comprehensive regional plan.

540A.210 Appeal of determination by regional planning commission.

540A.220 Periodic review.

540A.230 Construction of certain facilities following approval of plan.

540A.240 Acquisition and use of water rights and other sources of water in accordance with plan; imposition of charge by board.

540A.290 Property or facility of county: Transfer to or operation or management by largest supplier in region which is public utility.

540A.300 Agreement between board and largest supplier in region which is public utility; compliance with regulations of Public Utilities Commission of Nevada; withholding of certain information from board.

540A.310 Duties of largest supplier in region which is public utility.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 489.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 519.

"SUMMARY—Prohibits threatening or intimidating persons who are gathering signatures on petitions. (BDR 24-178)"

"AN ACT relating to elections; prohibiting a person from threatening or intimidating a person who is gathering signatures on a petition; ~~requiring complaints to be made within 3 days after the alleged violation; requiring the Secretary of State or the First Judicial District Court~~ *providing for causes of action relating to a violation; authorizing the district court* to extend the period for gathering signatures on a petition upon finding a violation; ~~providing for the payment of reasonable fees and costs to a complaining party;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Title 24 of NRS requires persons seeking to place items on election ballots to first gather a certain number of signatures in support of the placement of the issue on the ballot. This bill prohibits a person from threatening or intimidating a person gathering such signatures with the intent or effect of preventing or discouraging the signature gathering. ~~[This bill also requires a person alleging a violation to file a complaint within 3 days after the alleged violation.]~~

This bill ~~requires the Secretary of State or the First Judicial District Court~~ *provides for causes of action by a person aggrieved by a violation of this bill for an injunction to prevent further violations, to request an extension of the period for gathering signatures on a petition and to recover damages from the person alleged to have violated the provisions of this bill. This bill also authorizes the district court* to extend the period of gathering signatures on a petition upon finding a violation of the provisions of this bill. ~~[This bill also provides for the appeal of decisions by the Secretary of State to the First Judicial District Court. Finally, this bill holds a person who threatens or intimidates a signature gatherer liable to the complaining party for the payment of reasonable fees and costs.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 293 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A person shall not threaten or intimidate, through words or contact and with the intent or the effect of preventing ~~for discouraging~~ the*

gathering of signatures on a petition, any person lawfully attempting to gather signatures on a petition.

~~f 2.—A person circulating a petition may allege a violation of subsection 1 to the Secretary of State not later than 3 working days after the alleged violation.~~

~~3.—If the Secretary of State determines that a violation of subsection 1 has prevented or discouraged a person from gathering signatures on a petition, the Secretary of State shall order that the deadline for filing the petition provided pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be extended for a period of not more than 5 days.~~

~~4.—The decision of the Secretary of State is a final decision for the purposes of judicial review. Not later than 7 days after the date of the decision by the Secretary of State, the decision of the Secretary of State may only be appealed in the First Judicial District Court. If the First Judicial District Court determines that a person was prevented or discouraged from gathering signatures by a violation of subsection 1, the Court shall order that the deadline for filing the petition provided pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be extended for a period of not more than 5 days.~~

~~5.—A person found to have violated subsection 1 pursuant to subsection 2 or 3 is liable to the complaining party for reasonable attorney's fees, costs and any other monetary damages determined by the Secretary of State or the First Judicial District Court.~~

2. A person aggrieved by a violation of subsection 1 may bring an action in district court:

(a) To request an extension of the deadline for filing a petition;

(b) To request an injunction restraining any person alleged in the complaint to have violated subsection 1 from further violating subsection 1; and

(c) To recover from any person alleged in the complaint to have violated subsection 1 any damages, including, without limitation, attorney's fees and costs.

3. A district court may:

(a) Expedite any hearing on any action brought pursuant to paragraph (a) or (b) of subsection 2; and

(b) Upon a determination that a violation of subsection 1 prevented or is likely to prevent the complainant from collecting the number of signatures required for the petition to be eligible to be placed on a ballot, order an extension of the time allowed for the gathering of signatures for the petition.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 495.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 490.

"SUMMARY—Makes various changes relating to ethics in government. (BDR 23-566)"

"AN ACT relating to ethics in government; ~~clarifying the jurisdiction of the Commission on Ethics; revising the restrictions concerning the employment of certain former public officers or employees; authorizing the Executive Director of the Commission to prescribe duties of the Commission Counsel; imposing a 3 year statute of limitations for enforcement of ethics violations; revising certain time limits associated with investigating requests for opinions and rendering opinions;~~ revising provisions concerning the filing of disclosures of certain representation ~~and ethics acknowledgments;~~ *; authorizing the imposition of a penalty against a public officer or employee who realizes financial benefit from an ethics violation;* revising the penalty for the acceptance or receipt of an honorarium; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Nevada Ethics in Government Law sets forth standards for the conduct of public officers and employees, which standards are interpreted and enforced by the Commission on Ethics. (NRS 281.411-281.581) ~~{This bill clarifies that, with one exception, the jurisdiction of the Commission only extends to the provisions of that Law.~~

~~Existing law imposes a "cooling off" period during which certain businesses and industries are prohibited from employing certain former public officers and employees. (NRS 281.236) Section 1 of this bill makes this prohibition applicable to the former public officer or employee instead of the business or industry. Under existing law, the Commission is authorized, upon the request of a public officer or employee who may be subject to such a "cooling off" period, to issue an opinion that grants relief from this period in certain circumstances. (NRS 281.236) Section 1 clarifies that the Commission may also issue an opinion when it does not grant such relief.~~

~~Section 3 of this bill specifies the number of members of the Commission that is required for a quorum and to take official action. (NRS 281.461) Existing law requires the Commission to appoint an Executive Director and a Commission Counsel, both of whose duties are prescribed in existing law and by the Commission. (NRS 281.463, 281.4635, 281.464) Section 6 of this bill authorizes the Executive Director to also prescribe the duties of the Commission Counsel.~~

~~Section 8 of this bill prescribes a 3 year statute of limitations for enforcement of ethics violations. (NRS 281.465)}~~ *Section 18 of this bill requires the Legislative Counsel to move those provisions of NRS to a new*

chapter of NRS to be numbered 281A which will include the provisions currently codified as NRS 281.411 to 281.581, inclusive.

Section 10 of this bill moves the deadline for the annual filing of a disclosure of representation before certain agencies by certain public officers and employees from January 10 to January 15, which is consistent with the deadlines by which statements of financial disclosure are required to be filed. (NRS 281.491, 281.559, 281.561)

~~Existing law prescribes a procedure for the investigation, determination and rendering of opinions by the Commission concerning the conduct of public officers and employees. Under this procedure, the Executive Director is required to complete an investigation and make recommendations to a panel of the Commission within 45 days after a request or motion for an opinion is requested or made, unless the subject of the request or motion waives this time limit. If a panel determines that an opinion is required, the Commission is required to hold a hearing and render an opinion on the matter within 30 days after the panel's determination, unless the subject of the request or motion waives this time limit. (NRS 281.511) Section 11 of this bill extends both of those time limits to 60 days and authorizes the Executive Director to request an extension of the time limit for investigating and reporting to a panel.~~

Under existing law, if a violation of the ethics provisions by a current or former public officer or employee results in the realization by another person of a financial benefit, the Commission is authorized to impose an additional civil penalty against the officer or employee. (NRS 281.551) Section 14 of this bill authorizes the imposition of such an additional penalty if the public officer or employee that committed the violation realizes any financial benefit.

~~Existing law requires a public officer to file an acknowledgment that he has received, read and understands the ethics provisions with his first statement of financial disclosure. (NRS 281.552) Because some public officers who are appointed are not required to file a statement of financial disclosure, section 15 of this bill directs such a public officer to file his ethics acknowledgment within 30 days after appointment.~~

Under existing law, a public officer or employee who accepts or receives an honorarium is guilty of a gross misdemeanor. (NRS 281.553) Section 16 of this bill removes the criminal penalty and makes the punishment for such a violation a civil penalty, which is the same penalty as for violations of the other ethics provisions.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~NRS 281.236 is hereby amended to read as follows:~~

~~281.236 1. A former Commissioner of the Public Utilities Commission of Nevada shall not appear before the Commission on behalf of a public utility that is regulated by the Commission or be employed by a public utility that is regulated by the Commission, or a parent organization or subsidiary of~~

~~such a public utility, [shall not employ a former member of the Public Utilities Commission of Nevada] for 1 year after the termination of his service on the Commission.~~

~~2. A former member of the State Gaming Control Board or the Nevada Gaming Commission shall not appear before the Board or Commission on behalf of a person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the [Nevada Gaming] Commission pursuant to chapter 463 of NRS [shall not employ a former member of the State Gaming Control Board or the Nevada Gaming Commission] or be employed by such a person, for 1 year after the termination of the member's service on the Board or Commission.~~

~~3. In addition to the prohibitions set forth in subsections 1 and 2, a former public officer or employee, except a clerical employee, shall not accept any employment with any business or in any industry whose activities are governed by regulations adopted by a department, division or other agency of the Executive Branch of government [shall not, except as otherwise provided in subsection 4, employ a former public officer or employee of the agency, except a clerical employee,] by which the former public officer or employee was employed, for 1 year after the termination of his service or period of employment if:~~

~~(a) His principal duties included the formulation of policy contained in the regulations governing the business or industry;~~

~~(b) During the immediately preceding year he directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry which might, but for this section, employ him; or~~

~~(c) As a result of his governmental service or employment, he possesses knowledge of the trade secrets of a direct business competitor.~~

~~4. A public officer or employee or former public officer or employee may request the Commission on Ethics to apply the relevant facts in his case to the provisions of subsection 3 and determine whether relief from the strict application of the provisions is [proper. If the Commission on Ethics determines that relief from the strict application of the provisions of subsection 3 is] not contrary to:~~

~~(a) The best interests of the public;~~

~~(b) The continued integrity of State Government; and~~

~~(c) The [code of ethical standards prescribed in NRS 281.481,~~

~~→ it] provisions of NRS 281.411 to 281.581, inclusive.~~

~~→ The Commission on Ethics may issue an opinion [to that effect and grant such relief. The opinion of the Commission on Ethics in such a case is] in response to such a request, whether or not the Commission grants such relief.~~

~~5. Each request for an opinion that a public officer or employee or former public officer or employee submits to the Commission on Ethics pursuant to subsection 4, each opinion rendered by the Commission in~~

~~response to such a request and any motion, determination, evidence or record of a hearing relating to such a request are subject to the requirements for confidentiality set forth in subsection 5 of NRS 281.511.~~

~~6. An opinion issued by the Commission on Ethics pursuant to subsection 4 is:~~

~~(a) Binding upon the requester and the Commission may impose any of the penalties set forth in NRS 281.551 if the requester acts in contravention of the opinion.~~

~~(b) Final and subject to judicial review [.~~

~~5.] pursuant to NRS 233B.130.~~

~~7. As used in this section, "regulation" has the meaning ascribed to it in NRS 233B.038.] (Deleted by amendment.)~~

Sec. 2. [NRS 281.4375 is hereby amended to read as follows:

~~281.4375. "Willful violation" means the public officer or employee knew or reasonably should have known that his conduct violated [this chapter.] NRS 281.111 to 281.581, inclusive.] (Deleted by amendment.)~~

Sec. 3. [NRS 281.461 is hereby amended to read as follows:

~~281.461. 1. The Commission shall:~~

~~(a) At its first meeting and annually thereafter elect a Chairman and Vice Chairman from among its members.~~

~~(b) Meet regularly at least once in each calendar quarter, unless there are no requests made for an opinion pursuant to NRS 281.236 or 281.511, and at other times upon the call of the Chairman.~~

~~2. Except as otherwise provided in this subsection, a majority of the members of the Commission constitutes a quorum for the transaction of business, and a majority of those present at any meeting is sufficient for any official action taken by the Commission. If the Commission is considering a matter on which members of the Commission are ineligible to participate pursuant to subsection 4 of NRS 281.462, the necessary quorum to act upon and the number of votes necessary to act upon the matter established pursuant to this subsection is reduced as though those ineligible members were not members of the Commission.~~

~~3. Members of the Commission are entitled to receive a salary of not more than \$80 per day, as fixed by the Commission, while engaged in the business of the Commission.~~

~~[3.] 4. While engaged in the business of the Commission, each member and employee of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.~~

~~[4.] 5. The Commission may, within the limits of legislative appropriation, maintain such facilities as are required to carry out its functions.] (Deleted by amendment.)~~

Sec. 4. [NRS 281.463 is hereby amended to read as follows:

~~281.463. 1. The Commission shall appoint, within the limits of legislative appropriation, an Executive Director who shall perform the duties~~

~~set forth in [this chapter] NRS 281.411 to 281.581, inclusive, and such other duties as may be prescribed by the Commission.~~

~~2. The Executive Director must have experience in administration, law enforcement, investigations or law.~~

~~3. The Executive Director is in the unclassified service of the State.~~

~~4. The Executive Director shall devote his entire time and attention to the business of the Commission and shall not pursue any other business or occupation or hold any other office of profit that detracts from the full and timely performance of his duties.~~

~~5. The Executive Director may not:~~

~~(a) Be actively involved in the work of any political party or political campaign; or~~

~~(b) Communicate directly or indirectly with a member of the Legislative Branch on behalf of someone other than himself to influence legislative action, except in pursuit of the business of the Commission. (Deleted by amendment.)~~

~~Sec. 5. [NRS 281.4635 is hereby amended to read as follows:~~

~~281.4635 1. In addition to any other duties imposed upon him, the Executive Director shall:~~

~~(a) Maintain complete and accurate records of all transactions and proceedings of the Commission.~~

~~(b) Receive requests for opinions pursuant to NRS 281.236 and 281.511.~~

~~(c) Gather information and conduct investigations regarding requests for opinions received by the Commission and submit recommendations to the panel appointed pursuant to NRS 281.462 regarding whether there is just and sufficient cause to render an opinion in response to a particular request.~~

~~(d) Recommend to the Commission any regulations or legislation that he considers desirable or necessary to improve the operation of the Commission and maintain high standards of ethical conduct in government.~~

~~(e) Upon the request of any public officer or the employer of a public employee, conduct training on the requirements of [this chapter,] NRS 281.411 to 281.581, inclusive, the rules and regulations adopted by the Commission and previous opinions of the Commission. In any such training, the Executive Director shall emphasize that he is not a member of the Commission and that only the Commission may issue opinions concerning the application of [the statutory ethical standards] NRS 281.411 to 281.581, inclusive, to any given set of facts and circumstances. The Commission may charge a reasonable fee to cover the costs of training provided by the Executive Director pursuant to this subsection.~~

~~(f) Perform such other duties, not inconsistent with law, as may be required by the Commission.~~

~~2. The Executive Director shall, within the limits of legislative appropriation, employ such persons as are necessary to carry out any of his duties relating to:~~

~~(a) The administration of the affairs of the Commission;~~

~~(b) The review of statements of financial disclosure; and~~

~~(c) The investigation of matters under the jurisdiction of the Commission.]~~

(Deleted by amendment.)

Sec. 6. ~~[NRS 281.464 is hereby amended to read as follows:~~

~~281.464 1. The Commission shall appoint, within the limits of legislative appropriation, a Commission Counsel who shall perform the duties set forth in [this chapter] NRS 281.411 to 281.581, inclusive, and such other duties as may be prescribed by the Commission [.] or the Executive Director.~~

~~2. The Commission Counsel must be an attorney who is licensed to practice law in this State.~~

~~3. The Commission Counsel is in the unclassified service of the State.~~

~~4. The Commission Counsel shall devote his entire time and attention to the business of the Commission and shall not pursue any other business or occupation or hold any other office of profit that detracts from the full and timely performance of his duties.~~

~~5. The Commission Counsel may not:~~

~~(a) Be actively involved in the work of any political party or political campaign; or~~

~~(b) Communicate directly or indirectly with a member of the legislative branch on behalf of someone other than himself to influence legislative action, except in pursuit of the business of the Commission.] (Deleted by amendment.)~~

Sec. 7. ~~[NRS 281.4645 is hereby amended to read as follows:~~

~~281.4645 1. The Commission Counsel is the legal adviser to the Commission. For each opinion of the Commission, the Commission Counsel shall prepare, at the direction of the Commission, the appropriate findings of fact and conclusions as to relevant [standards] provisions of NRS 281.411 to 281.581, inclusive, and the propriety of particular conduct within the time set forth in subsection 4 of NRS 281.511. The Commission Counsel shall not issue written opinions concerning the applicability of [the statutory ethical standards] NRS 281.411 to 281.581, inclusive, to a given set of facts and circumstances except as directed by the Commission.~~

~~2. The Commission may rely upon the legal advice of the Commission Counsel in conducting its daily operations.~~

~~3. If the Commission Counsel is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Commission may:~~

~~(a) Request that the Attorney General appoint a deputy to act in the place of the Commission Counsel; or~~

~~(b) Employ outside legal counsel.] (Deleted by amendment.)~~

Sec. 8. ~~[NRS 281.465 is hereby amended to read as follows:~~

~~281.465 1. The Commission has jurisdiction to investigate and take appropriate action regarding an alleged violation of [this chapter]~~

~~NRS 281.411 to 281.581, inclusive, by a public officer or employee or former public officer or employee in any proceeding commenced by:~~

- ~~(a) The filing of a request for an opinion with the Commission; or~~
- ~~(b) The Commission on its own motion.~~

~~2. The provisions of subsection 1 apply to a public officer or employee who:~~

~~(a) Currently holds public office or is publicly employed at the commencement of proceedings against him;~~

~~(b) Resigns or otherwise leaves his public office or employment [;~~

~~(1) After] after the commencement of proceedings against him .[; or~~

~~(2) Within 1 year after the alleged violation or reasonable discovery of the alleged violation.]~~

~~3. Except as otherwise provided in this subsection, the Commission may not commence an investigation, or take any action pursuant to subsection 1, regarding an alleged violation of NRS 281.411 to 281.581, inclusive, by a public officer or employee or former public officer or employee unless the Commission notifies the officer or employee of its intent to do so within 3 years after the commission or omission that constitutes the alleged violation. The 3-year period:~~

~~(a) Does not commence until the discovery of the facts that lead or should lead to the discovery of the alleged violation;~~

~~(b) Is suspended during the pendency of any action or proceeding to which the Commission or the public officer or employee is a party, which action or proceeding involves the conduct of the public officer or employee to which the alleged violation relates.] (Deleted by amendment.)~~

Sec. 9. ~~[NRS 281.471 is hereby amended to read as follows:~~

~~281.471 The Commission shall:~~

~~1. Adopt procedural regulations:~~

~~(a) To facilitate the receipt of inquiries by the Commission;~~

~~(b) For the filing of a request for an opinion with the Commission;~~

~~(c) For the withdrawal of a request for an opinion by the person who filed the request; and~~

~~(d) To facilitate the prompt rendition of opinions by the Commission.~~

~~2. Prescribe, by regulation, forms for the submission of statements of financial disclosure and procedures for the submission of statements of financial disclosure filed pursuant to NRS 281.559 and forms and procedures for the submission of statements of acknowledgment filed by public officers pursuant to NRS 281.552, maintain files of such statements and make the statements available for public inspection.~~

~~3. Cause the making of such investigations as are reasonable and necessary for the rendition of its opinions pursuant to [this chapter.] NRS 281.411 to 281.581, inclusive.~~

~~4. Except as otherwise provided in NRS 281.559, inform the Attorney General or district attorney of all cases of noncompliance with the requirements of [this chapter.] NRS 281.411 to 281.581, inclusive.~~

~~5. Recommend to the Legislature such further legislation as the Commission considers desirable or necessary to promote and maintain high standards of ethical conduct in government.~~

~~6. Publish a manual for the use of public officers and employees that contains:~~

~~(a) Hypothetical opinions which are abstracted from opinions rendered pursuant to subsection 1 of NRS 281.511, for the future guidance of all persons concerned with [ethical standards in government;] NRS 281.411 to 281.581, inclusive;~~

~~(b) Abstracts of selected opinions rendered pursuant to subsection 2 of NRS 281.511; and~~

~~(c) An abstract of the requirements of [this chapter.] NRS 281.411 to 281.581, inclusive.~~

~~7. The Legislative Counsel shall prepare annotations to [this chapter] NRS 281.411 to 281.581, inclusive, for inclusion in the Nevada Revised Statutes based on the abstracts and published opinions of the Commission. (Deleted by amendment.)~~

Sec. 10. NRS 281.491 is hereby amended to read as follows:

281.491 In addition to the requirements of the code of ethical standards:

1. A member of the Executive Branch or public employee of the Executive Branch shall not accept compensation from any private person to represent or counsel him on any issue pending before the agency in which that officer or employee serves, if the agency makes decisions. Any such officer or employee who leaves the service of the agency shall not, for 1 year after leaving the service of the agency, represent or counsel for compensation a private person upon any issue which was under consideration by the agency during his service. As used in this subsection, "issue" includes a case, proceeding, application, contract or determination, but does not include the proposal or consideration of legislative measures or administrative regulations.

2. A member of the Legislative Branch, or a member of the Executive Branch or public employee whose public service requires less than half of his time, may represent or counsel a private person before an agency in which he does not serve. Any other member of the Executive Branch or public employee shall not represent a client for compensation before any state agency of the Executive or Legislative Branch of government.

3. Not later than January 15 of each year, any Legislator or other public officer who has, within the preceding year, represented or counseled a private person for compensation before a state agency of the Executive Branch shall disclose for each such representation or counseling during the previous calendar year:

- (a) The name of the client;
- (b) The nature of the representation; and
- (c) The name of the state agency.

↪ The disclosure must be made in writing and filed with the Commission, on a form prescribed by the Commission. The Commission shall retain a disclosure filed pursuant to this subsection for 6 years after the date on which the disclosure was filed.

Sec. 11. ~~[NRS 281.511 is hereby amended to read as follows:~~

~~281.511 1. The Commission shall render an opinion interpreting [the statutory ethical standards] NRS 281.411 to 281.581, inclusive, and apply [the standards] those provisions to a given set of facts and circumstances upon request, on a form prescribed by the Commission, from a public officer or employee who is seeking guidance on questions which directly relate to the propriety of his own past, present or future conduct as an officer or employee. He may also request the Commission to hold a public hearing regarding the requested opinion. If a requested opinion relates to the propriety of his own present or future conduct, the opinion of the Commission is:~~

~~(a) Binding upon the requester as to his future conduct; and~~

~~(b) Final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance of persons other than those necessary to the proceeding, unless this right to confidential proceedings is waived by the requester.~~

~~2. The Commission may render an opinion interpreting [the statutory ethical standards] NRS 281.411 to 281.581, inclusive, and apply [the standards] those provisions to a given set of facts and circumstances:~~

~~(a) Upon request from a specialized or local ethics committee.~~

~~(b) Except as otherwise provided in this subsection, upon request from a person, if the requester submits:~~

~~(1) The request on a form prescribed by the Commission; and~~

~~(2) All related evidence deemed necessary by the Executive Director [and] for the panel to make a determination of whether there is just and sufficient cause to render an opinion in the matter.~~

~~(c) Upon the Commission's own motion regarding the propriety of conduct by a public officer or employee. The Commission shall not initiate proceedings pursuant to this paragraph based solely upon an anonymous complaint.~~

~~↪ The Commission shall not render an opinion interpreting [the statutory ethical standards] NRS 281.411 to 281.581, inclusive, or apply those [standards] provisions to a given set of facts and circumstances if the request is submitted by a person who is incarcerated in a correctional facility in this State [...] or is submitted 3 years or more after the alleged violation of NRS 281.411 to 281.581, inclusive, occurred, was discovered or reasonably should have been discovered, whichever is later.~~

~~3. Upon receipt of a request for an opinion by the Commission or upon the motion of the Commission pursuant to subsection 2, the Executive Director shall investigate the facts and circumstances relating to the request to determine whether there is just and sufficient cause for the Commission to~~

~~render an opinion in the matter. The public officer or employee that is the subject of the request may submit to the Executive Director any information relevant to the request. The Executive Director shall complete an investigation and present his recommendation relating to just and sufficient cause to the panel within [45] 60 days after the receipt of or the motion of the Commission for the request, unless the public officer or employee waives this time limit [.] or, upon the written request of the Executive Director, the Commission grants an extension for good cause shown. If the Executive Director determines after an investigation that just and sufficient cause exists for the Commission to render an opinion in the matter, he shall state such a recommendation in writing, including, without limitation, the specific evidence that supports his recommendation. If, after an investigation, the Executive Director does not determine that just and sufficient cause exists for the Commission to render an opinion in the matter, he shall state such a recommendation in writing, including, without limitation, the specific reasons for his recommendation. Within 15 days after the Executive Director has provided his recommendation in the matter to the panel, the panel shall make a final determination regarding whether just and sufficient cause exists for the Commission to render an opinion in the matter, unless the public officer or employee waives this time limit. The panel shall not determine that there is just and sufficient cause for the Commission to render an opinion unless the panel has provided the public officer or employee an opportunity to respond to the allegations against him. The panel shall cause a record of its proceedings in each matter to be kept, and such a record must remain confidential until the panel determines whether there is just and sufficient cause for the Commission to render an opinion in the matter.~~

~~4. If the panel determines that just and sufficient cause exists for the Commission to render an opinion requested pursuant to this section, the Commission shall hold a hearing and render an opinion in the matter within [30] 60 days after the determination of just and sufficient cause by the panel, unless the public officer or employee waives this time limit.~~

~~5. Each request for an opinion that a public officer or employee submits to the Commission pursuant to subsection 1, each opinion rendered by the Commission in response to such a request and any motion, determination, evidence or record of a hearing relating to such a request are confidential unless the public officer or employee who requested the opinion:~~

~~(a) Acts in contravention of the opinion, in which case the Commission may disclose the request for the opinion, the contents of the opinion and any motion, evidence or record of a hearing related thereto;~~

~~(b) Discloses the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto; or~~

~~(c) Requests the Commission to disclose the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto.~~

~~6.—Except as otherwise provided in this subsection, each document in the possession of the Commission or its staff that is related to a request for an opinion regarding a public officer or employee submitted to or initiated by the Commission pursuant to subsection 2, including, without limitation, the Commission's copy of the request and all materials and information gathered in an investigation of the request, is confidential until the panel determines whether there is just and sufficient cause to render an opinion in the matter. The public officer or employee who is the subject of a request for an opinion submitted or initiated pursuant to subsection 2 may in writing authorize the Commission to make its files, material and information which are related to the request publicly available.~~

~~7.—Except as otherwise provided in paragraphs (a) and (b), the proceedings of a panel are confidential until the panel determines whether there is just and sufficient cause to render an opinion. A person who:~~

~~(a) Requests an opinion from the Commission pursuant to paragraph (b) of subsection 2 may:~~

~~(1) At any time, reveal to a third party the alleged conduct of a public officer or employee underlying the request that he filed with the Commission or the substance of testimony, if any, that he gave before the Commission.~~

~~(2) After the panel determines whether there is just and sufficient cause to render an opinion in the matter, reveal to a third party the fact that he requested an opinion from the Commission.~~

~~(b) Gives testimony before the Commission may:~~

~~(1) At any time, reveal to a third party the substance of testimony that he gave before the Commission.~~

~~(2) After the panel determines whether there is just and sufficient cause to render an opinion in the matter, reveal to a third party the fact that he gave testimony before the Commission.~~

~~8.—Whenever the Commission holds a hearing pursuant to this section, the Commission shall:~~

~~(a) Notify the person about whom the opinion was requested of the place and time of the Commission's hearing on the matter;~~

~~(b) Allow the person to be represented by counsel; and~~

~~(c) Allow the person to hear the evidence presented to the Commission and to respond and present evidence on his own behalf.~~

~~— The Commission's hearing may be held no sooner than 10 days after the notice is given unless the person agrees to a shorter time.~~

~~9.—If a person who is not a party to a hearing before the Commission, including, without limitation, a person who has requested an opinion pursuant to paragraph (a) or (b) of subsection 2, wishes to ask a question of a witness at the hearing, the person must submit the question to the Executive Director in writing. The Executive Director may submit the question to the Commission if he deems the question relevant and appropriate. This subsection does not require the Commission to ask any question submitted by a person who is not a party to the proceeding.~~

~~10. If a person who requests an opinion pursuant to subsection 1 or 2 does not:~~

- ~~(a) Submit all necessary information to the Commission; and~~
 - ~~(b) Declare by oath or affirmation that he will testify truthfully;~~
- ~~the Commission may decline to render an opinion.~~

~~11. For good cause shown, the Commission may take testimony from a person by telephone or video conference.~~

~~12. For the purposes of NRS 41.032, the members of the Commission and its employees shall be deemed to be exercising or performing a discretionary function or duty when taking an action related to the rendering of an opinion pursuant to this section.~~

~~13. A meeting or hearing that the Commission or the panel holds to receive information or evidence concerning the propriety of the conduct of a public officer or employee pursuant to this section and the deliberations of the Commission and the panel on such information or evidence are not subject to the provisions of chapter 241 of NRS.] (Deleted by amendment.)~~

~~Sec. 12. [NRS 281.521 is hereby amended to read as follows:~~

~~281.521 The Commission's opinions may include guidance to a public officer or employee on questions whether:~~

- ~~1. A conflict exists between his personal interest and his official duty.~~
- ~~2. His official duties involve the use of discretionary judgment whose exercise in the particular matter would have a significant effect upon the disposition of the matter.~~
- ~~3. The conflict would materially affect the independence of the judgment of a reasonable person in his situation.~~
- ~~4. He possesses special knowledge which is an indispensable asset of his public agency and is needed by it to reach a sound decision.~~
- ~~5. It would be appropriate for him to withdraw or abstain from participation, disclose the nature of his conflicting personal interest or pursue some other designated course of action in the matter.~~

~~6. Any other provision of NRS 281.411 to 281.581, inclusive, applies to his situation.] (Deleted by amendment.)~~

~~Sec. 13. [NRS 281.541 is hereby amended to read as follows:~~

~~281.541 1. Any department, board, commission or other agency of the State or the governing body of a county or an incorporated city may establish a specialized or local ethics committee to complement the functions of the Commission. A specialized or local ethics committee may:~~

~~(a) Establish a code of ethical standards suitable for the particular ethical problems encountered in its sphere of activity. The standards may not be less restrictive than [the statutory ethical standards.] NRS 281.411 to 281.581, inclusive.~~

~~(b) Render an opinion upon the request of any public officer or employee of its own organization or level seeking an interpretation of its ethical standards on questions directly [related] relating to the propriety of his own future official conduct or refer the request to the Commission. Any public~~

~~officer or employee subject to the jurisdiction of the committee shall direct his inquiry to that committee instead of the Commission.~~

~~(c) Require the filing of statements of financial disclosure by public officers on forms prescribed by the committee or the city clerk if the form has been:~~

~~(1) Submitted, at least 60 days before its anticipated distribution, to the Commission for review; and~~

~~(2) Upon review, approved by the Commission.~~

~~2. A specialized or local ethics committee shall not attempt to interpret, or render an opinion regarding [the statutory ethical standards.], NRS 281.411 to 281.581, inclusive.~~

~~3. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:~~

~~(a) The public officer or employee acts in contravention of the opinion; or~~

~~(b) The requester discloses the content of the opinion.] (Deleted by amendment.)~~

Sec. 14. NRS 281.551 is hereby amended to read as follows:

281.551 1. In addition to any other penalty provided by law, the Commission may impose on a public officer or employee or former public officer or employee civil penalties:

(a) Not to exceed \$5,000 for a first willful violation of ~~[this chapter,]~~ *NRS 281.411 to 281.581, inclusive;*

(b) Not to exceed \$10,000 for a separate act or event that constitutes a second willful violation of ~~[this chapter,]~~ *NRS 281.411 to 281.581, inclusive;* and

(c) Not to exceed \$25,000 for a separate act or event that constitutes a third willful violation of ~~[this chapter,]~~ *NRS 281.411 to 281.581, inclusive.*

2. In addition to other penalties provided by law, the Commission may impose a civil penalty not to exceed \$5,000 and assess an amount equal to the amount of attorney's fees and costs actually and reasonably incurred by the person about whom an opinion was requested pursuant to NRS 281.511 against a person who prevents, interferes with or attempts to prevent or interfere with the discovery or investigation of a violation of ~~[this chapter,]~~ *NRS 281.411 to 281.581, inclusive.*

3. If the Commission finds that a violation of a provision of ~~[this chapter]~~ *NRS 281.411 to 281.581, inclusive*, by a public officer or employee or former public officer or employee has resulted in the realization of a financial benefit by the current or former public officer or employee or another person, ~~[of a financial benefit,]~~ the Commission may, in addition to other penalties provided by law, require the current or former public officer or employee to pay a civil penalty of not more than twice the amount so realized.

4. If the Commission finds that:

(a) A willful violation of ~~[this chapter]~~ *NRS 281.411 to 281.581, inclusive*, has been committed by a public officer removable from office by impeachment only, the Commission shall file a report with the appropriate person responsible for commencing impeachment proceedings as to its finding. The report must contain a statement of the facts alleged to constitute the violation.

(b) A willful violation of ~~[this chapter]~~ *NRS 281.411 to 281.581, inclusive*, has been committed by a public officer removable from office pursuant to NRS 283.440, the Commission may file a proceeding in the appropriate court for removal of the officer.

(c) Three or more willful violations have been committed by a public officer removable from office pursuant to NRS 283.440, the Commission shall file a proceeding in the appropriate court for removal of the officer.

5. An action taken by a public officer or employee or former public officer or employee relating to NRS ~~[281.481, 281.491, 281.501 or 281.505]~~ *281.411 to 281.581, inclusive*, is not a willful violation of a provision of those sections if the public officer or employee establishes by sufficient evidence that he satisfied all of the following requirements:

(a) He relied in good faith upon the advice of the legal counsel retained by the public body which the public officer represents or by the employer of the public employee or upon the manual published by the Commission pursuant to NRS 281.471;

(b) He was unable, through no fault of his own, to obtain an opinion from the Commission before the action was taken; and

(c) He took action that was not contrary to a prior published opinion issued by the Commission.

6. In addition to other penalties provided by law, a public employee who willfully violates a provision of NRS ~~[281.481, 281.491, 281.501 or 281.505]~~ *281.411 to 281.581, inclusive*, is subject to disciplinary proceedings by his employer and must be referred for action in accordance to the applicable provisions governing his employment.

7. ~~The provisions of NRS [281.481 to 281.541,]~~ *281.411 to 281.581, inclusive*, do not abrogate or decrease the effect of the provisions of the Nevada Revised Statutes which define crimes or prescribe punishments with respect to the conduct of public officers or employees. If the Commission finds that a public officer or employee has committed a willful violation of ~~[this chapter]~~ *NRS 281.411 to 281.581, inclusive*, which it believes may also constitute a criminal offense, the Commission shall refer the matter to the Attorney General or the district attorney, as appropriate, for a determination of whether a crime has been committed that warrants prosecution.

8. The imposition of a civil penalty pursuant to subsection 1, 2 or 3 is a final decision for the purposes of judicial review.

9. A finding by the Commission that a public officer or employee has violated any provision of ~~[this chapter]~~ *NRS 281.411 to 281.581, inclusive*,

must be supported by a preponderance of the evidence unless a greater burden is otherwise prescribed by law.

Sec. 15. ~~[NRS 281.552 is hereby amended to read as follows:~~

~~281.552 1. Every public officer shall acknowledge that he has received, read and understands [the statutory ethical standards.] NRS 281.411 to 281.581, inclusive. The acknowledgment must be on a form prescribed by the Commission and must:~~

~~(a) If the public officer is required to file a statement of financial disclosure pursuant to NRS 281.559 or 281.561, accompany the first statement of financial disclosure that the public officer is required to file with the Commission pursuant to NRS 281.559 or the Secretary of State pursuant to NRS 281.561 [.] after the election or appointment of the public officer.~~

~~(b) If the public officer is not required to file a statement of financial disclosure pursuant to NRS 281.559, be filed with the Commission within 30 days after the appointment of the public officer.~~

~~2. The Commission and the Secretary of State shall retain an acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.~~

~~3. Willful refusal to execute and file the acknowledgment required by this section constitutes nonfeasance in office and is a ground for removal [pursuant to] if the public officer is subject to the provisions of NRS 283.440. (Deleted by amendment.)~~

Sec. 16. NRS 281.553 is hereby amended to read as follows:

281.553 1. A public officer or public employee shall not accept or receive an honorarium.

2. An honorarium paid on behalf of a public officer or public employee to a charitable organization from which the officer or employee does not derive any financial benefit is deemed not to be accepted or received by the officer or employee for the purposes of this section.

3. This section does not prohibit:

(a) The receipt of payment for work performed outside the normal course of a person's public office or employment if the performance of that work is consistent with the applicable policies of his public employer regarding supplemental employment.

(b) The receipt of an honorarium by the spouse of a public officer or public employee if it is related to the spouse's profession or occupation.

4. As used in this section, "honorarium" means the payment of money or anything of value for an appearance or speech by the public officer or public employee in his capacity as a public officer or public employee. The term does not include the payment of:

(a) The actual and necessary costs incurred by the public officer or public employee, his spouse or his aid for transportation and for lodging and meals while the public officer or public employee is away from his residence.

(b) Compensation which would otherwise have been earned by the public officer or public employee in the normal course of his public office or employment.

(c) A fee for a speech related to the officer's or employee's profession or occupation outside of his public office or employment if:

(1) Other members of the profession or occupation are ordinarily compensated for such a speech; and

(2) The fee paid to the public officer or public employee is approximately the same as the fee that would be paid to a member of the private sector whose qualifications are similar to those of the officer or employee for a comparable speech.

(d) A fee for a speech delivered to an organization of legislatures, legislators or other elected officers.

5. ~~[A]~~ *In addition to any other penalty imposed pursuant to NRS 281.551, a public officer or public employee who violates the provisions of this section [is guilty of a gross misdemeanor and, upon conviction, forfeits] shall forfeit the amount of the honorarium.*

Sec. 17. ~~[NRS 281.557 is hereby amended to read as follows:~~

~~281.557 1. In addition to any other penalty provided by law, a governmental grant, contract or lease entered into in violation of [this chapter] NRS 281.411 to 281.581, inclusive, is voidable by the State, county, city or town. In a determination under this section of whether to void a grant, contract or lease, the interests of innocent third parties who could be damaged must be taken into account. The Attorney General, district attorney or city attorney must give notice of his intent to void a grant, contract or lease under this section [no] not later than 30 days after the Commission has determined that there has been a related violation of [this chapter.] NRS 281.411 to 281.581, inclusive.~~

~~2. In addition to any other penalty provided by law, a contract prohibited by NRS 281.230 which is knowingly entered into by a person designated in subsection 1 of NRS 281.230 is void.~~

~~3. Any action taken by the State in violation of [this chapter] NRS 281.411 to 281.581, inclusive, is voidable, except that the interests of innocent third parties in the nature of the violation must be taken into account. The Attorney General may also pursue any other available legal or equitable remedies.~~

~~4. In addition to any other penalty provided by law, the Attorney General may recover any fee, compensation, gift or benefit received by a person as a result of a violation of [this chapter] NRS 281.411 to 281.581, inclusive, by a public officer. An action to recover pursuant to this section must be brought within 2 years after the discovery of the violation.] (Deleted by amendment.)~~

Sec. 18. *The Legislative Counsel shall:*

1. In preparing the reprint and supplements to the Nevada Revised Statutes, move NRS 281.411 to 281.581, inclusive, to a new chapter of NRS to be numbered chapter 281A of NRS, preserving as much of the

existing numbering as practicable, and appropriately change any internal references to reflect the change in location and numbering.

2. In preparing the supplements to the Nevada Administrative Code, appropriately change any references to NRS 281.411 to 281.581, inclusive, to reflect the change in the location and numbering of the provisions.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 499.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 251.

"SUMMARY—Revises provisions governing the approval of certain plans, designs and specifications for school buildings. (BDR 22-443)"

"AN ACT relating to school facilities; revising provisions governing the approval of certain plans, designs and specifications for, and the inspection of the construction and renovation of, school buildings; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the board of trustees of a school district must, before letting a contract for the construction or renovation of a school building, submit the relevant plans, designs and specifications to the State Public Works Board for the Board's review and approval. Existing law provides exceptions to this requirement if certain standard plans, designs and specifications are used, or if the State Public Works Board enters into an agreement to have such functions performed by the building department of a county or city. (NRS 385.125, 393.110)

Section 4 of this bill provides that, in a county whose population is 400,000 or more (currently Clark County), existing law remains unchanged.

Section 4 provides that, in a county whose population is 30,000 or more but less than 400,000 (currently Washoe, Elko, Douglas, Nye and Lyon Counties, and Carson City), plans, designs and specifications pertaining to the construction or renovation of school buildings must be reviewed by, and the construction or renovation must be inspected by, the county building department or another local building department in the county. If there is no such department, the board of trustees of the school district is required to enter into an agreement with the State Public Works Board, a private entity or a building department in another county to perform the necessary reviews and inspections.

Section 4 provides that, in a county whose population is less than 30,000 (currently Churchill, Humboldt, White Pine, Pershing, Lander, Mineral, Lincoln, Storey, Eureka and Esmeralda Counties), plans, designs and

specifications pertaining to the construction or renovation of school buildings must be reviewed by, and the construction or renovation must be inspected by, the State Public Works Board. If the Board determines that the building department of the county or another local building department has the expertise to perform such functions, the Board may enter into an agreement with that department to perform the necessary reviews and inspections.

Sections 4 and 5 of this bill clarify that the approval of the State Fire Marshal is not required for plans, designs and specifications of school buildings that are reviewed by a local building department or a private entity and, similarly, an inspection of the construction and renovation of school buildings by the State Fire Marshal is not required if such an inspection is conducted by a local building department or private entity. (NRS 393.110, 477.030)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 278.580 is hereby amended to read as follows:

278.580 1. Subject to the limitation set forth in NRS 244.368, the governing body of any city or county may adopt a building code, specifying the design, soundness and materials of structures, and may adopt rules, ordinances and regulations for the enforcement of the building code.

2. The governing body may also fix a reasonable schedule of fees for the issuance of building permits. A schedule of fees so fixed does not apply to the State of Nevada ~~[-]~~ or the Nevada System of Higher Education, ~~for any school district,~~ except that such entities may *enter into* a contract with the governing body to pay such fees for the issuance of building permits, the review of plans and the inspection of construction. Except as it may agree to in such a contract, a governing body is not required to provide for the review of plans or the inspection of construction with respect to a structure of the State of Nevada ~~[-]~~ or the Nevada System of Higher Education. ~~for any school district.~~

3. Notwithstanding any other provision of law, the State and its political subdivisions shall comply with all zoning regulations adopted pursuant to this chapter, except for the expansion of any activity existing on April 23, 1971.

4. A governing body shall amend its building codes and, if necessary, its zoning ordinances and regulations to permit the use of:

(a) Straw or other materials and technologies which conserve scarce natural resources or resources that are renewable in the construction of a structure; and

(b) Systems which use solar or wind energy to reduce the costs of energy for a structure if such systems and structures are otherwise in compliance with applicable building codes and zoning ordinances, including those relating to the design, location and soundness of such systems and structures, ➡ to the extent the local climate allows for the use of such materials, technologies, resources and systems.

5. The amendments required by subsection 4 may address, without limitation:

(a) The inclusion of characteristics of land and structures that are most appropriate for the construction and use of systems using solar and wind energy.

(b) The recognition of any impediments to the development of systems using solar and wind energy.

(c) The preparation of design standards for the construction, conversion or rehabilitation of new and existing systems using solar and wind energy.

6. A governing body shall amend its building codes to include:

(a) The seismic provisions of the International Building Code published by the International Code Council; and

(b) Standards for the investigation of hazards relating to seismic activity, including, without limitation, potential surface ruptures and liquefaction.

Sec. 2. NRS 244.3675 is hereby amended to read as follows:

244.3675 Subject to the limitations set forth in NRS 244.368, 278.580, 278.582 and 444.340 to 444.430, inclusive, the boards of county commissioners within their respective counties may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county.

2. Adopt any building, electrical, housing, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada ~~or~~ or the Nevada System of Higher Education . ~~for any school district.~~

Sec. 3. NRS 268.413 is hereby amended to read as follows:

268.413 Subject to the limitations contained in NRS 244.368, 278.580, 278.582 and 444.340 to 444.430, inclusive, the city council or other governing body of an incorporated city may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the city.

2. Adopt any building, electrical, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada ~~or~~ or the Nevada System of Higher Education . ~~for any school district.~~

Sec. 4. NRS 393.110 is hereby amended to read as follows:

393.110 1. Each school district shall, in the design, construction and alteration of school buildings and facilities , comply with the applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations. The requirements of this subsection are not satisfied if a school district complies solely with the

Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

2. ~~[Except as otherwise provided in subsection 3:~~

~~(a) Unless] In a county whose population is 400,000 or more:~~

~~(a) Except as otherwise provided in paragraph (c), unless standard plans, designs and specifications are to be used as provided in NRS 385.125, before letting any contract or contracts for the erection of any new school building, the board of trustees of [a] the county school district shall submit the plans, designs and specifications [therefor] to, and obtain the written approval of the plans, designs and specifications by, the State Public Works Board. The State Public Works Board shall review the plans, designs and specifications and make any recommendations as expeditiously as practicable. The State Public Works Board is authorized to charge and collect, and the board of trustees of the county school district is authorized to pay, a reasonable fee for the payment of any costs incurred by the State Public Works Board in securing the approval of qualified architects or engineers of the plans, designs and specifications submitted by the board of trustees in compliance with the provisions of this paragraph.~~

~~(b) [Before] Except as otherwise provided in paragraph (c), before letting any contract or contracts for any addition to or alteration of an existing school building which involves structural systems, or exiting, sanitary or fire protection facilities, the board of trustees of [a] the county school district shall submit the plans, designs and specifications [therefor] to, and obtain the written approval of the plans, designs and specifications by, the State Public Works Board. The State Public Works Board shall review the plans, designs and specifications and make any recommendations as expeditiously as practicable. The State Public Works Board is authorized to charge and collect, and the board of trustees of the county school district is authorized to pay, a reasonable fee for the payment of any costs incurred by the State Public Works Board in securing the approval of qualified architects or engineers of the plans, designs and specifications submitted by the board of trustees in compliance with the provisions of this paragraph.~~

~~[→ The State Public Works Board shall verify that all plans, designs and specifications that it reviews pursuant to this section comply with all applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations. The requirements of this subsection are not satisfied if the plans, designs and specifications comply solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.~~

~~3.] (c) The State Public Works Board may enter into an agreement with the appropriate building department of a county or city to review plans, designs and specifications of a school district pursuant to [subsection 2.]~~

paragraph (a) or (b). If the State Public Works Board enters into such an agreement, the board of trustees of the school district shall submit a copy of its plans, designs and specifications for any project to which ~~subsection 2]~~ paragraph (a) or (b) applies to the building department before commencement of the project for the approval of ~~the~~ that building department. The building department shall review the plans, designs and specifications and provide responsive comment as expeditiously as practicable. ~~to] [Such a]~~ The approval of the State Fire Marshal is not required for any plans, designs and specifications reviewed by a building department pursuant to this paragraph. A building department that has entered into an agreement pursuant to this paragraph is authorized to charge and collect, and the board of trustees of the county school district is authorized to pay, a reasonable fee for the review conducted pursuant to this paragraph.

3. In a county whose population is 30,000 or more but less than 400,000:

(a) Except as otherwise provided in paragraph (b), unless standard plans, designs and specifications are to be used as provided in NRS 385.125, before letting any contract or contracts for the erection of any new school building or for any addition to or alteration of an existing school building, the board of trustees of the county school district shall submit the plans, designs and specifications to, and obtain written approval of the plans, designs and specifications by, the building department of the county or another local building department in the county, as applicable, and all other local agencies or departments whose approval is necessary for the issuance of the appropriate permit. The approval of the State Fire Marshal is not required for any plans, designs and specifications reviewed by a building department pursuant to this paragraph.

(b) If there is no county building department or other local building department in the county in which the school district is located, the board of trustees of the school district shall enter into an agreement with the State Public Works Board, a private entity or ~~with~~ a local ~~governmental~~ building department in another county to obtain the required reviews of the plans, designs and specifications and to have the required inspections conducted. The approval of the State Fire Marshal is not required for any plans, designs and specifications reviewed by a private entity or local building department pursuant to this paragraph.

(c) A permit for construction must be issued before the school district commences construction.

(d) The county building department ~~or~~ or other local building department, the State Public Works Board or the private entity, as applicable, shall conduct inspections of all work to determine compliance with the approved plans, designs and specifications. An inspection of the work by the State Fire Marshal is not required if the work is inspected by the private entity or local building department.

(e) *A department, agency or entity or the State Public Works Board is authorized to charge and collect, and the board of trustees of the county school district is authorized to pay, a reasonable fee for:*

(1) *Review of the plans, designs or specifications as required by this subsection; or*

(2) *The inspections conducted pursuant to this subsection.*

4. *In a county whose population is less than 30,000:*

(a) *Except as otherwise provided in paragraph (d), unless standard plans, designs and specifications are to be used as provided in NRS 385.125, before letting any contract or contracts for the erection of any new school building or for any addition to or alteration of an existing school building, the board of trustees of the county school district shall submit the plans, designs and specifications to, and obtain written approval of the plans, designs and specifications by, the State Public Works Board and all other local agencies or departments whose approval is necessary for the issuance of the appropriate permit.*

(b) *A permit for construction must be issued before the school district commences construction.*

(c) *Except as otherwise provided in paragraph (d), the State Public Works Board shall conduct inspections of all work to determine compliance with the approved plans, designs and specifications.*

(d) *The State Public Works Board may, if it determines that the building department of the county or another local building department has the necessary expertise, enter into an agreement with the appropriate building department to allow that building department to review the plans, designs and specifications and conduct the inspections required by this subsection. If plans, designs and specifications were reviewed and an inspection was conducted by a building department pursuant to this paragraph, the approval of the plans, designs and specifications by and an inspection by the State Fire Marshal is not required.*

(e) *The State Public Works Board or a local building department is authorized to charge and collect, and the board of trustees of the county school district is authorized to pay, a reasonable fee for:*

(1) *The review of the plans, designs or specifications as required by this subsection; or*

(2) *The inspections conducted pursuant to this subsection.*

5. *In conducting reviews pursuant to this section, the State Public Works Board, building department or private entity, as applicable, shall verify that the plans, designs and specifications comply with ~~the~~:*

(a) *The applicable requirements of the relevant codes adopted by this State;*

(b) *The applicable requirements of the relevant codes adopted by the local authority having jurisdiction; and*

(c) *All applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., inclusive, and the regulations adopted*

pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations. ~~[The building department may charge and collect a reasonable fee from the board of trustees of the school district for the payment of any costs incurred by the building department in reviewing the plans, designs and specifications. A permit for construction must not be issued without the approval of the building department pursuant to this subsection.]~~ The requirements of this subsection are not satisfied if the plans, designs and specifications comply solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

~~[4.]~~ 6. No contract for any of the purposes specified in ~~[subsection 4]~~ *this section* made by a board of trustees of a school district contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to or altering any school building in contravention of this section.

Sec. 5. NRS 477.030 is hereby amended to read as follows:

477.030 1. Except as otherwise provided in this section, the State Fire Marshal shall enforce all laws and adopt regulations relating to:

(a) The prevention of fire.

(b) The storage and use of:

(1) Combustibles, flammables and fireworks; and

(2) Explosives in any commercial construction, but not in mining or the control of avalanches,

↪ under those circumstances that are not otherwise regulated by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(c) The safety, access, means and adequacy of exit in case of fire from mental and penal institutions, facilities for the care of children, foster homes, residential facilities for groups, facilities for intermediate care, nursing homes, hospitals, schools, all buildings, except private residences, which are occupied for sleeping purposes, buildings used for public assembly and all other buildings where large numbers of persons work, live or congregate for any purpose. As used in this paragraph, "public assembly" means a building or a portion of a building used for the gathering together of 50 or more persons for purposes of deliberation, education, instruction, worship, entertainment, amusement or awaiting transportation, or the gathering together of 100 or more persons in establishments for drinking or dining.

(d) The suppression and punishment of arson and fraudulent claims or practices in connection with fire losses.

↪ The regulations of the State Fire Marshal apply throughout the State, but, except with respect to state-owned or state-occupied buildings, his authority to enforce them or conduct investigations under this chapter does not extend to a school district in a county whose population is 30,000 or more except as otherwise provided in NRS 393.110, or a county whose population is 100,000

or more or which has been converted into a consolidated municipality, except in those local jurisdictions in those counties where he is requested to exercise that authority by the chief officer of the organized fire department of that jurisdiction or except as otherwise provided in a regulation adopted pursuant to paragraph (b) of subsection 2.

2. The State Fire Marshal may:

(a) Set standards for equipment and appliances pertaining to fire safety or to be used for fire protection within this State, including the threads used on fire hose couplings and hydrant fittings; and

(b) Adopt regulations based on nationally recognized standards setting forth the requirements for fire departments to provide training to firefighters using techniques or exercises that involve the use of fire or any device that produces or may be used to produce fire.

3. The State Fire Marshal shall cooperate with the State Forester Firewarden in the preparation of regulations relating to standards for fire retardant roofing materials pursuant to paragraph (e) of subsection 1 of NRS 472.040.

4. The State Fire Marshal shall cooperate with the Division of Child and Family Services of the Department of Health and Human Services in establishing reasonable minimum standards for overseeing the safety of and directing the means and adequacy of exit in case of fire from family foster homes and group foster homes.

5. The State Fire Marshal shall coordinate all activities conducted pursuant to 15 U.S.C. §§ 2201 et seq. and receive and distribute money allocated by the United States pursuant to that act.

6. Except as otherwise provided in subsection 10, the State Fire Marshal shall:

(a) Investigate any fire which occurs in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature.

(b) Investigate any fire which occurs in a county whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature, if requested to do so by the chief officer of the fire department in whose jurisdiction the fire occurs.

(c) Cooperate with the Commissioner of Insurance, the Attorney General and the Fraud Control Unit established pursuant to NRS 228.412 in any investigation of a fraudulent claim under an insurance policy for any fire of a suspicious nature.

(d) Cooperate with any local fire department in the investigation of any report received pursuant to NRS 629.045.

(e) Provide specialized training in investigating the causes of fires if requested to do so by the chief officer of an organized fire department.

7. The State Fire Marshal shall put the National Fire Incident Reporting System into effect throughout the State and publish at least annually a summary of data collected under the System.

8. The State Fire Marshal shall provide assistance and materials to local authorities, upon request, for the establishment of programs for public education and other fire prevention activities.

9. The State Fire Marshal shall:

(a) ~~Assist~~ Except as otherwise provided in NRS 393.110, assist in checking plans and specifications for construction;

(b) Provide specialized training to local fire departments; and

(c) Assist local governments in drafting regulations and ordinances, on request or as he deems necessary.

10. Except as otherwise provided in this subsection ~~and~~ and NRS 393.110, in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, the State Fire Marshal shall, upon request by a local government, delegate to the local government by interlocal agreement all or a portion of his authority or duties if the local government's personnel and programs are, as determined by the State Fire Marshal, equally qualified to perform those functions. If a local government fails to maintain the qualified personnel and programs in accordance with such an agreement, the State Fire Marshal shall revoke the agreement. The provisions of this subsection do not apply to the authority of the State Fire Marshal to adopt regulations pursuant to paragraph (b) of subsection 2.

11. The State Fire Marshal may, as a public safety officer or as a technical expert on issues relating to hazardous materials, participate in any local, state or federal team or task force that is established to conduct enforcement and interdiction activities involving:

(a) Commercial trucking;

(b) Environmental crimes;

(c) Explosives and pyrotechnics;

(d) Drugs or other controlled substances; or

(e) Any similar activity specified by the State Fire Marshal.

~~Sec. 5.~~ Sec. 6. This act becomes effective upon passage and approval.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 501.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 433.

"SUMMARY—Makes various changes to provisions relating to taxation and nonprofit entities that provide emergency medical services. (BDR 32-1406)"

"AN ACT relating to taxation; providing various exemptions for nonprofit entities that provide emergency medical services; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for certain exemptions from excise taxes on certain motor vehicle and aircraft ~~fuel,~~ fuels, and from sales tax on certain transfers of personal property. (NRS 365.220, 366.200, 372.7287, 374.7315) Sections 1, 2, 3 and ~~6~~ 7 of this bill extend such exemptions to include certain nonprofit organizations that own or operate ambulances or air ambulances. ~~Section 8 of this bill makes retroactive to November 1, 2002, the proposed exemptions from sales tax for the sale or transfer of air ambulances to certain nonprofit organizations.~~

Existing law also provides for certain excise taxes on motor vehicle and aircraft fuel to be imposed by counties in certain circumstances. (NRS 373.030, 373.065) Sections ~~3, 4 and 5~~ 4, 5 and 6 of this bill extend an exemption from such taxes to motor vehicle and aircraft fuel sold to certain nonprofit organizations that own or operate ambulances or air ambulances.

Section ~~7~~ 8 of this bill authorizes the Department of Motor Vehicles to issue special license plates for an ambulance owned or operated by certain nonprofit organizations. Section ~~7~~ 8 also provides an exemption from the annual license and registration fees and the governmental services tax for an ambulance owned or operated by certain nonprofit organizations.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 365.220 is hereby amended to read as follows:

365.220 The provisions of this chapter requiring the payment of excise taxes do not apply to:

1. Motor vehicle fuel if it remains in interstate or foreign commerce.
2. Motor vehicle fuel, except aviation fuel, exported from this State by a supplier.
3. Aviation fuel or fuel for jet or turbine-powered aircraft exported from this State by a dealer.
4. Motor vehicle fuel or fuel for jet or turbine-powered aircraft sold to the United States Government for official use of the United States Armed Forces.

5. Motor vehicle fuel, other than aviation fuel, distributed or delivered on the order of the owner, to a supplier, or aviation fuel or fuel for jet or turbine-powered aircraft distributed or delivered on the order of the owner, to a dealer, if the dealer or supplier has furnished security in the amount prescribed in NRS 365.290 and has established to the satisfaction of the Department that the security is sufficient to ensure payment of all excise taxes as they may become due to the State from him under this chapter.

Every dealer or supplier who claims an exemption shall report the distributions to the Department in such detail as the Department may require. If he does not do so, the exemption granted in this subsection is void and all fuel is considered distributed in this State subject fully to the provisions of this chapter.

6. Leaded racing fuel. As used in this subsection, "leaded racing fuel" means motor vehicle fuel that contains lead and is produced for motor vehicles that are designed and built for racing and not for operation on a public highway.

7. *Motor vehicle fuel, aviation fuel or fuel for jet or turbine-powered aircraft that is:*

(a) *Sold to a nonprofit organization which is created for religious, charitable or educational purposes and which holds a permit to own or operate an ambulance or air ambulance pursuant to chapter 450B of NRS; and*

(b) *Used in an ambulance, as defined in NRS 450B.040, or an air ambulance, as defined in NRS 450B.030.*

Sec. 2. NRS 366.200 is hereby amended to read as follows:

366.200 1. The sale or use of special fuel for any purpose other than to propel a motor vehicle upon the public highways of Nevada is exempt from the application of the tax imposed by NRS 366.190. The exemption provided in this subsection applies only in those cases where the purchasers or the users of special fuel establish to the satisfaction of the Department that the special fuel purchased or used was used for purposes other than to propel a motor vehicle upon the public highways of Nevada.

2. Sales made to the United States Government or any instrumentality thereof are exempt from the tax imposed by this chapter.

3. Sales made to any state, county, municipality, district or other political subdivision thereof are exempt from the tax imposed by this chapter.

4. Sales made to any person to be used to propel a motor vehicle which is dedicated for exclusive use as part of a system which:

- (a) Operates motor vehicles for public transportation in an urban area;
- (b) Transports persons who pay the established fare; and
- (c) Uses public money to operate the system or acquire new equipment,

↪ are exempt from the tax imposed by this chapter.

5. Sales made to any person for use in operating special mobile equipment are exempt from the tax imposed by this chapter.

6. The sale and use of special fuel that is:

(a) Sold to a nonprofit organization which is created for religious, charitable or educational purposes and which holds a permit to own or operate an ambulance or air ambulance pursuant to chapter 450B of NRS; and

(b) Used in an ambulance, as defined in NRS 450B.040, or an air ambulance, as defined in NRS 450B.030,

↪ are exempt from the tax imposed by this chapter.

~~[Sec. 2.]~~ Sec. 3. NRS 372.7287 is hereby amended to read as follows:

372.7287 In administering the provisions of NRS 372.326, the Department shall apply the exemption for the sale of tangible personal property to a nonprofit organization created for religious, charitable or educational purposes to include ~~any~~ :

1. Any type of motor vehicle that is transferred for use by such a nonprofit organization, whether by sale or lease and regardless of whether title to the vehicle passes to the nonprofit organization at any time during the use of the vehicle ~~[.]~~ ; and

2. If the nonprofit organization holds a permit to own or operate an air ambulance pursuant to chapter 450B of NRS, any type of air ambulance, as defined in NRS 450B.030, that is transferred for use by such a nonprofit organization, whether by sale or lease and regardless of whether title to the air ambulance passes to the nonprofit organization at any time during the use of the air ambulance.

~~[Sec. 3.]~~ Sec. 4. Chapter 373 of NRS is hereby amended by adding thereto a new section to read as follows:

The provisions of this chapter requiring the payment of taxes on motor vehicle fuel do not apply to motor vehicle fuel that is:

1. Sold to a nonprofit organization which is created for religious, charitable or educational purposes and which holds a permit to own or operate an ambulance or air ambulance pursuant to chapter 450B of NRS; and

2. Used in an ambulance, as defined in NRS 450B.040, or an air ambulance, as defined in NRS 450B.030.

~~[Sec. 4.]~~ Sec. 5. NRS 373.030 is hereby amended to read as follows:

373.030 1. In any county for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board may by ordinance:

(a) Create a regional transportation commission; and

(b) Impose a tax on motor vehicle fuel, except aviation fuel, ~~and~~ leaded racing fuel ~~[.]~~ and motor vehicle fuel exempted pursuant to section ~~32~~ 4 of this act, sold in the county in an amount not to exceed 9 cents per gallon.

2. A tax imposed pursuant to this section is in addition to other motor vehicle fuel taxes imposed pursuant to the provisions of chapter 365 of NRS.

3. As used in this section:

(a) "Aviation fuel" has the meaning ascribed to it in NRS 365.015.

(b) "Leaded racing fuel" means motor vehicle fuel that contains lead and is produced for motor vehicles that are designed and built for racing and not for operation on a public highway.

~~[Sec. 5.]~~ Sec. 6. NRS 373.065 is hereby amended to read as follows:

373.065 1. Except as otherwise provided in this section, in a county whose population is less than 400,000:

(a) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel ~~[]~~ and motor vehicle fuel exempted pursuant to section ~~37~~ 4 of this act, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to NRS 365.180 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to NRS 365.180 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

(b) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel ~~[]~~ and motor vehicle fuel exempted pursuant to section ~~37~~ 4 of this act, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to NRS 365.190 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to NRS 365.190 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

(c) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel ~~[]~~ and motor vehicle fuel exempted pursuant to section ~~37~~ 4 of this act, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to NRS 365.192 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to NRS 365.192 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

(d) If the board imposes a tax pursuant to paragraph (b) of subsection 1 of NRS 373.030, the board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, ~~and~~ leaded racing fuel ~~[]~~ and motor vehicle fuel exempted pursuant to

~~section 4~~ section 4 of this act, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to paragraph (b) of subsection 1 of NRS 373.030 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to paragraph (b) of subsection 1 of NRS 373.030 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

2. A board may not adopt any ordinance authorized by this section unless:

(a) In a county for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board first:

(1) Imposes a tax pursuant to paragraph (b) of subsection 1 of NRS 373.030 at the maximum rate authorized pursuant to that paragraph; or

(2) Submits to the voters of the county at a general or special election the question of whether to impose a tax pursuant to paragraph (b) of subsection 1 of NRS 373.030 at the maximum rate authorized pursuant to that paragraph; and

(b) A question concerning the imposition of the tax pursuant to this section is first approved by a majority of the registered voters of the county voting upon the question which the board may submit to the voters at any general election. The Committee on Local Government Finance shall annually provide to each city clerk, county clerk and district attorney in this State forms for submitting a question to the registered voters of a county pursuant to this paragraph. Any question submitted to the registered voters of a county pursuant to this paragraph must be in the form most recently provided by the Committee on Local Government Finance.

3. An ordinance adopted pursuant to this section in a county whose population is less than 100,000:

(a) Must be reapproved, in addition to the approval required by paragraph (b) of subsection 2, at least once every 8 years by a majority of the registered voters of the county voting on the question which the board may submit to the voters at any general election; and

(b) Expires by limitation no later than the last day of the 8th calendar year following the calendar year in which the ordinance was:

(1) Approved in accordance with paragraph (b) of subsection 2; or

(2) Most recently reapproved in accordance with this subsection,

➡ whichever occurs later.

4. Any ordinance authorized by this section may be adopted in combination with any other ordinance authorized by this section. Each tax imposed pursuant to this section is in addition to any other motor vehicle fuel taxes imposed pursuant to the provisions of this chapter and chapter 365 of NRS. Upon adoption of an ordinance authorized by this section, no further action by the board is necessary to effectuate the annual increases before the ordinance expires by limitation.

5. Any ordinance adopted pursuant to this section must:

(a) Become effective on the first day of the first calendar quarter beginning not less than 90 days after the adoption of the ordinance; and

(b) If the board has created a regional transportation commission in the county, require the commission:

(1) To review, at a public meeting conducted after the provision of public notice and before the effective date of each annual increase imposed by the ordinance:

(I) The amount of that increase and the accuracy of its calculation;

(II) The amounts of any annual increases imposed by the ordinance in previous years and the revenue collected pursuant to those increases;

(III) Any improvements to the regional system of transportation resulting from revenue collected pursuant to any annual increases imposed by the ordinance in previous years; and

(IV) Any other information relevant to the effect of the annual increases on the public; and

(2) To submit to the board any information the commission receives suggesting that the annual increase should be adjusted.

6. Any ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.180; and

(2) Expire by limitation no later than the effective date of any increase or decrease in the amount of the tax imposed pursuant to NRS 365.180 which becomes effective after the adoption of that ordinance.

(b) Paragraph (b) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.190; and

(2) Expire by limitation no later than the effective date of any increase or decrease in the amount of the tax imposed pursuant to NRS 365.190 which becomes effective after the adoption of that ordinance.

(c) Paragraph (c) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same

proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.192; and

(2) Expire by limitation no later than the effective date of any increase or decrease in the amount of the tax imposed pursuant to NRS 365.192 which becomes effective after the adoption of that ordinance.

(d) Paragraph (d) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to paragraph (b) of subsection 1 of NRS 373.030; and

(2) Expire by limitation no later than the effective date of any subsequent ordinance increasing or decreasing the amount of the tax imposed in that county pursuant to paragraph (b) of subsection 1 of NRS 373.030.

~~[Sec. 6.]~~ Sec. 7. NRS 374.7315 is hereby amended to read as follows:

374.7315 In administering the provisions of NRS 374.3305, the Department shall apply the exemption for the sale of tangible personal property to a nonprofit organization created for religious, charitable or educational purposes to include ~~any~~:

1. Any type of motor vehicle that is transferred for use by such a nonprofit organization, whether by sale or lease and regardless of whether title to the vehicle passes to the nonprofit organization at any time during the use of the vehicle ~~[-]~~; and

2. *If the nonprofit organization holds a permit to own or operate an air ambulance pursuant to chapter 450B of NRS, any type of air ambulance, as defined in NRS 450B.030, that is transferred for use by such a nonprofit organization, whether by sale or lease and regardless of whether title to the air ambulance passes to the nonprofit organization at any time during the use of the air ambulance.*

~~[Sec. 7.]~~ Sec. 8. NRS 482.3795 is hereby amended to read as follows:

482.3795 1. The Department may issue special license plates and registration certificates to residents of Nevada for a fire truck *or ambulance* pursuant to this section. Except as otherwise provided in subsection 3, the fire truck *or ambulance* must not be used for general transportation, but may be used for musters, exhibitions, parades or similar activities.

2. In lieu of the annual registration and fees required by this chapter, and of the governmental services tax imposed by chapter 371 of NRS, the owner of a fire truck *or ambulance* may submit:

(a) An affidavit to the Department indicating that the fire truck ~~[-]~~ *or ambulance*:

(1) Will only be used for the permitted purposes enumerated in subsection 1;

(2) Has been inspected and found safe to be operated on the highways of this State; and

(3) Qualifies as a fire truck pursuant to regulations adopted by the Department for this purpose ~~[]~~ *or qualifies as an ambulance pursuant to chapter 450B of NRS.*

(b) The following fees for the issuance of these license plates:

- (1) For the first issuance \$15
- (2) For a renewal sticker 5

3. If the owner elects to use the fire truck *or ambulance* as general transportation, he shall pay the regular annual registration and fees prescribed by law and the governmental services tax imposed by chapter 371 of NRS.

4. License plates issued pursuant to this section must bear the inscription "Fire Truck" *or "Ambulance," as appropriate*, and the plates must be numbered consecutively.

5. The cost of the die and the modifications necessary for the issuance of a license plate pursuant to this section must be paid from private sources without any expense to the State of Nevada.

6. *As used in this section, "ambulance" means an ambulance, as defined in NRS 450B.040, owned or operated by a nonprofit organization which is created for religious, charitable or educational purposes and which holds a permit to own or operate an ambulance pursuant to chapter 450B of NRS.*

~~[Sec. 8.] Sec. 9. [The provisions of NRS 372.7287 and 374.7315, as amended by this act, apply retroactively to the sale, on or after November 1, 2002, of an air ambulance, as defined in NRS 450B.030, to a nonprofit organization which is created for religious, charitable or educational purposes and which holds a permit to own or operate an air ambulance pursuant to chapter 450B of NRS, including any type of air ambulance transferred for use by such a nonprofit organization, whether by sale or lease and regardless of whether title to the air ambulance passes to the nonprofit organization at any time during the use of the air ambulance.]~~
(Deleted by amendment.)

~~[Sec. 9.]~~ Sec. 10. This act becomes effective on July 1, 2007.

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 502.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 437.

"SUMMARY—Revises various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement and repeals certain obsolete provisions for the administration of those taxes. (BDR 32-556)"

"AN ACT relating to taxes on retail sales; revising various provisions governing sales and use taxes to ensure continued compliance with the

Streamlined Sales and Use Tax Agreement; providing for the direct payment by certain purchasers of any sales and use taxes due to an Indian reservation or Indian colony in this State; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to repeal a tax exemption for the sale of aircraft and major components of aircraft to an airline based in Nevada and to authorize the Legislature to amend or repeal a provision of that Act without additional voter approval when necessary to carry out a federal law or interstate agreement for the administration of sales and use taxes; repealing certain obsolete provisions for the administration of sales and use taxes; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the administration of sales and use taxes in this State pursuant to the Simplified Sales and Use Tax Administration Act, the Sales and Use Tax Act and the Local School Support Tax Law. (Chapters 360B, 372 and 374 of NRS) Under existing law, the Legislature has found and declared that this State should enter into an interstate agreement to simplify and modernize sales and use tax administration to reduce the burden of tax compliance for all sellers and types of commerce. (NRS 360B.020) Existing law requires the Nevada Tax Commission to enter into the Streamlined Sales and Use Tax Agreement and take all other actions reasonably required to implement the provisions of the Agreement. (NRS 360B.110) Sections 2, 5-7 and 15-17 of this bill set forth and clarify various administrative definitions required pursuant to the Agreement, as amended. Section 3 of this bill contains the requirements of a recent amendment to the Agreement regarding the certification by the State of the software of certain computer programs that calculate the taxes due on a sale and the provision of a limited waiver of liability for the persons who rely on that certification. Section 9 of this bill carries out a recent amendment to the Agreement regarding the conditions under which multiple remittances of taxes may be required for a single tax return from a seller who registers under the Agreement. Section 10 of this bill clarifies the duties of the Department of Taxation to post on its website certain tax information required by the Agreement. Section 11 of this bill clarifies the statutory provisions governing the contents and use of a list required by the Agreement for determining the combined rate of taxes imposed in each zip code. Section 12 of this bill carries out and clarifies the requirements of the Agreement, as amended, to waive the liability of sellers and purchasers who rely on the tax information posted on the Department's website in accordance with the Agreement.

Existing law authorizes a person who obtains a direct pay permit to pay any applicable sales and use taxes due on certain purchases directly to this State and its local governments instead of to the seller. (NRS 360B.260) Section 13 of this bill additionally provides for the direct payment of any applicable sales and use taxes due on such a purchase to an Indian reservation or Indian colony in this State.

Under existing law, persons who desire to conduct business as sellers in this State must register pursuant to the Streamlined Sales and Use Tax Agreement or obtain permits from the Department of Taxation. (NRS 372.125 and 374.130) Sections 18-20 and 28-30 of this bill clarify that the statutory provisions applicable to an application for such a permit do not apply to the registration of a seller pursuant to the Agreement.

Existing law creates a presumption that a sale is subject to sales and use taxes unless the seller obtains a certificate from the purchaser indicating that the property is purchased for resale. (NRS 372.155, 372.225, 374.160, 374.230) Sections 21-25 and 31-35 of this bill revise the statutory provisions governing resale certificates to combine some of the existing provisions for clarity and to carry out the requirements of the Streamlined Sales and Use Tax Agreement regarding the acceptance of resale certificates from certain third-party vendors, the contents of resale certificates and the liability of a seller for the improper use of a resale certificate by a purchaser.

Existing law prohibits the Department of Taxation, in administering use taxes, from considering the taxability of certain property acquired free of charge at a convention, trade show or other public event. (NRS 372.7275, 374.726) Sections 27 and 37 of this bill ensure that existing law does not appear to create a threshold for the application of a sales or use tax, as prohibited by the Streamlined Sales and Use Tax Agreement.

Existing law authorizes the adoption of an ordinance for the imposition of a sales and use tax in Clark County to employ and equip additional police officers. (Clark County Sales and Use Tax Act of 2005) Section 38 of this bill revises the requirements for such an ordinance in accordance with the provisions of the Streamlined Sales and Use Tax Agreement requiring a common state and local tax base and imposing restrictions on the date of implementation of changes in tax rates.

Existing law includes various provisions of the Sales and Use Tax Act of 1955. (NRS 372.010-372.115, 372.185-372.205, 372.260-372.284, 372.285-372.325, 372.327-372.345, 372.350) Under existing law, the provisions of that Act, which was submitted to and approved by the voters at the 1956 General Election, cannot be amended or repealed without additional voter approval. (Nev. Const. Art. 19, § 1) Sections 39-47 of this bill provide for the submission to the voters of an amendment to that Act to authorize the Legislature to amend that Act without any additional voter approval as necessary to carry out any federal law or interstate agreement for the administration of sales and use taxes, and to repeal a section of that Act that was declared unconstitutional by the Nevada Supreme Court in *Worldcorp v. State, Department of Taxation*, 113 Nev. 1032 (1997).

Section 49 of this bill repeals NRS 360B.270 in accordance with a recent amendment to the Streamlined Sales and Use Tax Agreement, NRS 372.160, 372.230, 374.165 and 374.235, the provisions of which have been incorporated into other statutes by sections 21, 24, 31 and 34 of this bill, NRS 372.728 and 374.728, which are obsolete, and, if the proposed

amendment to the Sales and Use Tax Act of 1955 is approved by the voters, NRS 372.726, which provides for the administration of the section that was declared unconstitutional.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 360B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *"Person" includes a government, governmental agency or political subdivision of a government.*

Sec. 3. *The Department shall:*

1. *Review the software submitted for the certification of a certified automated system pursuant to the Agreement and, if the Department determines that the software adequately classifies each exemption from the sales and use taxes imposed in this State which is based upon the description of a product, certify its acceptance of the classifications made by the system.*

2. *Except as otherwise provided in subsection 3:*

(a) *If a certified service provider acting on behalf of a registered seller fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reliance on the certification of the Department pursuant to subsection 1 regarding the certified automated system used by that certified service provider, waive any liability of the certified service provider, and of the registered seller on whose behalf the certified service provider is acting, for:*

(1) *The amount of the sales or use tax which the certified service provider fails to collect as a result of that reliance; and*

(2) *Any penalties and interest on that amount.*

(b) *If a registered seller who elects to use a certified automated system pursuant to subsection 3 of NRS 360B.200 fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reliance on the certification of the Department pursuant to subsection 1 regarding the certified automated system used by that registered seller, waive any liability of the registered seller for:*

(1) *The amount of the sales or use tax which the registered seller fails to collect as a result of that reliance; and*

(2) *Any penalties and interest on that amount.*

3. *Notify a certified service provider or a registered seller who elects to use a certified automated system pursuant to subsection 3 of NRS 360B.200 if the Department determines that the taxability of any item or transaction is being incorrectly classified by the certified automated system used by the certified service provider or registered seller. The provisions of subsection 2 do not require the waiver of any liability for the incorrect classification of an item or transaction regarding which notice was provided to the certified service provider or registered seller pursuant to this subsection if the incorrect classification occurs more than 10 days after the receipt of that notice.*

Sec. 4. NRS 360B.030 is hereby amended to read as follows:

360B.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 360B.040 to 360B.100, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 5. NRS 360B.050 is hereby amended to read as follows:

360B.050 "Certified automated system" means software certified ~~jointly by the states that are signatories~~ pursuant to the Agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state and maintain a record of the transaction.

Sec. 6. NRS 360B.060 is hereby amended to read as follows:

360B.060 "Certified service provider" means an agent certified ~~jointly by the states that are signatories~~ pursuant to the Agreement to perform all of a seller's sales *and use* tax functions ~~[-]~~, *other than the seller's obligation to remit the taxes on its own purchases.*

Sec. 7. NRS 360B.090 is hereby amended to read as follows:

360B.090 "State" means any state of the United States, ~~and~~ the District of Columbia ~~[-]~~ *and the Commonwealth of Puerto Rico.*

Sec. 8. NRS 360B.110 is hereby amended to read as follows:

360B.110 The Nevada Tax Commission shall:

1. Except as otherwise provided in NRS 360B.120, enter into the Agreement.

2. Act jointly with other states that are members of the Agreement to establish standards for:

- (a) Certification of a certified service provider;
- (b) A certified automated system; *and*
- (c) Performance of multistate sellers. ~~[-; and~~
- ~~(d) An address-based system for determining the applicable sales and use taxes.[-]~~

3. Take all other actions reasonably required to implement the provisions of this chapter and the provisions of the Agreement, including, without limitation, the:

(a) Adoption of regulations to carry out the provisions of this chapter and the provisions of the Agreement; and

(b) Procurement, jointly with other member states, of goods and services.

4. Represent, or have its designee represent, the State of Nevada before the other states that are signatories to the Agreement.

5. Designate not more than four delegates, who may be members of the Commission, to represent the State of Nevada for the purposes of reviewing or amending the Agreement.

Sec. 9. NRS 360B.200 is hereby amended to read as follows:

360B.200 1. The Department shall, in cooperation with any other states that are members of the Agreement, establish and maintain a central, electronic registration system that allows a seller to register to collect and remit the sales and use taxes imposed in this State and in the other states that are members of the Agreement.

2. A seller who registers pursuant to this section agrees to collect and remit sales and use taxes in accordance with the provisions of this chapter, the regulations of the Department and the applicable law of each state that is a member of the Agreement, including any state that becomes a member of the Agreement after the registration of the seller pursuant to this section. The cancellation or revocation of the registration of a seller pursuant to this section, the withdrawal of a state from the Agreement or the revocation of the Agreement does not relieve a seller from liability pursuant to this subsection to remit any taxes previously or subsequently collected on behalf of a state.

3. When registering pursuant to this section, a seller may:

(a) Elect to use a certified service provider as its agent to perform all the functions of the seller relating to sales and use taxes, other than the obligation of the seller to remit the taxes on its own purchases;

(b) Elect to use a certified automated system to calculate the amount of sales or use taxes due on its sales transactions;

(c) Under such conditions as the Department deems appropriate in accordance with the Agreement, elect to use its own proprietary automated system to calculate the amount of sales or use taxes due on its sales transactions; or

(d) Elect to use any other method authorized by the Department for performing the functions of the seller relating to sales and use taxes.

4. A seller who registers pursuant to this section agrees to submit its sales and use tax returns, and to remit any sales and use taxes due, to the Department at such times and in such a manner and format as the Department prescribes by regulation. Those regulations must:

(a) Require from each seller who registers pursuant to this section:

(1) Only one tax return for each taxing period for all the sales and use taxes collected on behalf of this State and each local government in this State; and

(2) Only one remittance of taxes for each tax return, except that the Department may require additional remittances of taxes if ~~the~~

~~(I) The seller collects~~ the seller:

(I) Collects more than \$30,000 in sales and use taxes on behalf of this State and the local governments in this State during the preceding calendar year;

(II) ~~The~~ Is allowed to determine the amount of ~~the~~ any additional remittance ~~is determined~~ by a method of calculation instead of by the actual amount collected; and

(III) ~~The seller is~~ Is not required to file any tax returns in addition to those otherwise required in accordance with this subsection.

(b) Allow any seller who registers pursuant to this section and makes an election pursuant to paragraph (a), (b) or (c) of subsection 3 to submit tax returns in a simplified format that does not include any more data fields than are permitted in accordance with the Agreement.

(c) Allow any seller who registers pursuant to this section, does not maintain a place of business in this State and has not made an election pursuant to paragraph (a), (b) or (c) of subsection 3, to file tax returns at a frequency that does not exceed once per year unless the seller accumulates more than \$1,000 in the collection of sales and use taxes on behalf of this State and the local governments in this State.

(d) Provide an alternative method for a seller who registers pursuant to this section to make tax payments the same day as the seller intends if an electronic transfer of money fails.

(e) Require any data that accompanies the remittance of a tax payment by or on behalf of a seller who registers pursuant to this section to be formatted using uniform codes for the type of tax and payment in accordance with the Agreement.

5. The registration of a seller and the collection and remission of sales and use taxes pursuant to this section may not be considered as a factor in determining whether a seller has a nexus with this State for the purposes of determining his liability to pay any tax imposed by this State.

Sec. 10. NRS 360B.230 is hereby amended to read as follows:

360B.230 1. The Department shall post on a website or other Internet site that is operated or administered by or on behalf of the Department ~~[-]~~, *in any format which may be required by the Agreement:*

(a) The rates of sales and use taxes for this State and for each local government and Indian reservation or Indian colony in this State that imposes such taxes. ~~[The Department shall identify this State and each local government using the Federal Information Processing Standards developed by the National Institute of Standards and Technology.]~~

(b) Any change in those rates.

(c) Any amendments to the statutory provisions and administrative regulations of this State governing the registration of sellers and the collection of sales and use taxes.

(d) Any change in the boundaries of local governments in this State that impose sales and use taxes.

(e) The list maintained pursuant to NRS 360B.240.

(f) *A matrix for determining the taxability of products in this State and any change in the taxability of a product listed in that matrix.*

(g) Any other information the Department deems appropriate.

2. The Department shall make a reasonable effort to provide sellers with as much advance notice as possible of any changes or amendments required to be posted pursuant to subsection 1 and of any other changes in the information posted pursuant to subsection 1. Except as otherwise provided in NRS 360B.250, the failure of the Department to provide such notice and the failure of a seller to receive such notice does not affect the obligation of the seller to collect and remit any applicable sales and use taxes.

Sec. 11. NRS 360B.240 is hereby amended to read as follows:

360B.240 1. The Department shall maintain a list that denotes for each five-digit and nine-digit zip code in this State the combined rates of sales taxes and the combined rates of use taxes imposed in the area of that zip code, and the applicable taxing jurisdictions ~~{-}~~, *including, without limitation, any pertinent Indian reservation or Indian colony*. If the combined rate of all the sales taxes or use taxes respectively imposed within the area of a zip code is not the same for the entire area of the zip code, the Department shall denote in the list the lowest combined tax rates for the entire zip code.

2. If a street address does not have a nine-digit zip code or if a registered seller *or certified service provider* is unable to determine the nine-digit zip code ~~{of a purchaser}~~ *applicable to a purchase* after exercising due diligence to determine that information, that seller *or certified service provider* may, except as otherwise provided in subsection 3, apply the rate denoted for the five-digit zip code in the list maintained pursuant to this section. For the purposes of this subsection, there is a rebuttable presumption that a registered seller *or certified service provider* has exercised due diligence if the seller *or certified service provider* has attempted to determine the nine-digit zip code ~~{of a purchaser}~~ *applicable to a purchase* by using software approved by the Department which makes that determination from the street address and five-digit zip code ~~{of the purchaser}~~ *applicable to the purchase*.

3. The list maintained pursuant to this section does not apply to and must not be used for any transaction regarding which a purchased product is received by the purchaser at the business location of the seller.

Sec. 12. NRS 360B.250 is hereby amended to read as follows:

360B.250 The Department shall ~~{waive any liability of}~~:

1. ~~If a registered seller {and a certified service provider acting on behalf of a registered seller who,} fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230 or his compliance with subsection 2 of NRS 360B.240, {collects the incorrect amount of any sales or use tax imposed in this State,}~~ *waive any liability of the registered seller for:*

~~{1.}~~ (a) The amount of the sales or use tax which the registered seller ~~{and certified service provider fail}~~ *fails to collect as a result of that reliance; and*

~~{2.}~~ (b) Any penalties and interest on that amount.

2. *If a certified service provider acting on behalf of a registered seller fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230 or his compliance with subsection 2 of NRS 360B.240, waive any liability of the certified service provider, and of the registered seller on whose behalf the certified service provider is acting, for:*

(a) The amount of the sales or use tax which the certified service provider fails to collect as a result of that reliance; and

(b) Any penalties and interest on that amount.

3. Waive any liability of a purchaser for any sum for which the liability of a registered seller or certified service provider is required to be waived pursuant to subsection 1 or 2 with regard to a transaction involving that purchaser.

4. If a purchaser fails to pay the correct amount of any sales or use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230, waive any liability of the purchaser for:

(a) The amount of the sales or use tax which the purchaser fails to pay as a result of that reliance; and

(b) Any penalties and interest on that amount.

Sec. 13. NRS 360B.260 is hereby amended to read as follows:

360B.260 1. A purchaser may purchase tangible personal property without paying to the seller at the time of purchase the sales and use taxes that are due thereon if:

(a) The seller does not maintain a place of business in this State; and

(b) The purchaser has obtained a direct pay permit pursuant to the provisions of this section.

2. A purchaser who wishes to obtain a direct pay permit must file with the Department an application for such a permit that:

(a) Is on a form prescribed by the Department; and

(b) Sets forth such information as is required by the Department.

3. The application must be signed by:

(a) The owner if he is a natural person;

(b) A member or partner if the seller is an association or partnership; or

(c) An executive officer or some other person specifically authorized to sign the application if the seller is a corporation. Written evidence of the signer's authority must be attached to the application.

4. Any purchaser who obtains a direct pay permit pursuant to this section shall:

(a) Determine the amount of sales and use taxes that are due and payable to this State, ~~for~~ a local government of this State or an Indian reservation or Indian colony in this State upon the purchase of tangible personal property from such a seller; and

(b) Report and pay those taxes to the appropriate authority.

~~{5. If a purchaser who has obtained a direct pay permit purchases tangible personal property that will be available for use digitally or electronically in more than one jurisdiction, he may, to determine the amount of tax that is due to this State or to a local government of this State, use any reasonable, consistent and uniform method to apportion the use of the property among the various jurisdictions in which it will be used that is supported by the purchaser's business records as they exist at the time of the consummation of the sale.}~~

Sec. 14. NRS 360B.290 is hereby amended to read as follows:

360B.290 Any invoice, billing or other document given to a purchaser that indicates the sales price for which tangible personal property is sold must state separately any amount received by the seller for:

1. Any installation charges for the property;
2. ~~The value of any exempt property given to the purchaser if the exempt property and any taxable property are sold as a single product or piece of merchandise;~~
3. Any credit for any trade-in which is specifically exempted from the sales price of the property pursuant to chapter 372 or 374 of NRS;
4. 3. Any interest, financing and carrying charges from credit extended on the sale; and
5. 4. Any taxes legally imposed directly on the consumer.

Sec. 15. NRS 360B.445 is hereby amended to read as follows:

360B.445 "Food" and "food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value, except alcoholic beverages , *dietary supplements* and tobacco.

Sec. 16. NRS 360B.460 is hereby amended to read as follows:

360B.460 "Prepared food" means:

1. Food sold in a heated state or heated by the seller;
2. Two or more food ingredients mixed or combined by the seller for sale as a single item, unless the food ingredients:
 - (a) Are only cut, repackaged or pasteurized by the seller; or
 - (b) Contain any raw eggs, fish, meat or poultry, or other such raw animal foods ~~[, for which]~~ *requiring* cooking by the consumer ~~[is]~~ *to prevent food-borne illnesses, as recommended* pursuant to the Food Code published by the Food and Drug Administration of the United States Department of Health and Human Services; and
3. Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins or straws. For the purposes of this ~~[paragraph]~~ *subsection*, "plates" does not include any containers or packaging used to transport food.

Sec. 17. NRS 360B.480 is hereby amended to read as follows:

360B.480 1. "Sales price" means the total amount of consideration, including cash, credit, property and services, for which personal property is sold, leased or rented, valued in money, whether received in money or otherwise, and without any deduction for:

- (a) The seller's cost of the property sold;
- (b) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
- (c) Any charges by the seller for any services necessary to complete the sale, including any delivery charges and excluding any installation charges which are stated separately pursuant to NRS 360B.290; and

(d) Except as otherwise provided in subsection 2, any credit for any trade-in.

2. The term does not include:

(a) Any installation charges which are stated separately pursuant to NRS 360B.290;

(b) ~~The value of any exempt personal property given to the purchaser if:~~

~~(1) The exempt property and any taxable property are sold as a single product or piece of merchandise; and~~

~~(2) The value of the exempt property is stated separately pursuant to NRS 360B.290;~~

~~(e)~~ Any credit for any trade-in which is:

(1) Specifically exempted from the sales price pursuant to chapter 372 or 374 of NRS; and

(2) Stated separately pursuant to NRS 360B.290;

~~[(d)]~~ (c) Any discounts, including those in the form of cash, term or coupons that are not reimbursed by a third party, which are allowed by a seller and taken by the purchaser on a sale;

~~[(e)]~~ (d) Any interest, financing and carrying charges from credit extended on the sale of personal property, if stated separately pursuant to NRS 360B.290; and

~~[(f)]~~ (e) Any taxes legally imposed directly on the consumer which are stated separately pursuant to NRS 360B.290.

3. *The term includes consideration received by a seller from a third party if:*

(a) The seller actually receives consideration from a person other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(b) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(c) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(d) Any of the following criteria is satisfied:

(1) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount, and the coupon, certificate or other documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or other documentation is presented.

(2) The purchaser identifies himself to the seller as a member of a group or organization entitled to a price reduction or discount. For the purposes of this subparagraph, a preferred customer card that is available to any patron does not constitute membership in such a group.

(3) The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

Sec. 18. NRS 372.125 is hereby amended to read as follows:

372.125 1. Every person desiring to engage in or conduct business as a seller within this State must ~~register~~.

(a) *Register* with the Department pursuant to NRS 360B.200 ; or ~~file~~

(b) *File* with the Department an application for a permit for each place of business.

2. Every application for a permit must:

(a) Be made upon a form prescribed by the Department.

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business.

(c) Set forth *any* other information which the Department may require.

~~{3. The application must be}~~

(d) *Be* signed by:

~~{(a)}~~ (1) The owner if he is a natural person;

~~{(b)}~~ (2) A member or partner if the seller is an association or partnership;

or

~~{(c)}~~ (3) An executive officer or some person specifically authorized to sign the application if the seller is a corporation. Written evidence of the signer's authority must be attached to the application.

Sec. 19. NRS 372.130 is hereby amended to read as follows:

372.130 At the time of making an application ~~{,}~~ *for a permit pursuant to NRS 372.125*, the applicant must pay to the Department a ~~permit~~ fee of \$5 for each permit.

Sec. 20. NRS 372.135 is hereby amended to read as follows:

372.135 1. Except as otherwise provided in NRS 360.205 and 372.145, after compliance with NRS 372.125, 372.130 and 372.510 by ~~{the applicant,}~~ *an applicant for a permit*, the Department shall:

(a) Grant and issue to ~~each~~ *the* applicant a separate permit for each place of business within the State.

(b) Provide the applicant with a full, written explanation of the liability of the applicant for the collection and payment of the taxes imposed by this chapter. The explanation required by this paragraph:

(1) Must include the procedures for the collection and payment of the taxes that are specifically applicable to the type of business conducted by the applicant, including, without limitation and when appropriate:

(I) An explanation of the circumstances under which a service provided by the applicant is taxable;

(II) The procedures for administering exemptions; and

(III) The circumstances under which charges for freight are taxable.

(2) Is in addition to, and not in lieu of, the instructions and information required to be provided by NRS 360.2925.

2. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated on it. It must at all times be conspicuously displayed at the place for which it is issued.

Sec. 21. NRS 372.155 is hereby amended to read as follows:

372.155 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax, it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes *in good faith* from the purchaser a certificate to the effect that the property is purchased for resale ~~[-] and the purchaser:~~

- (a) *Is engaged in the business of selling tangible personal property;*
- (b) *Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and*
- (c) *At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.*

2. *If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:*

- (a) *The third-party vendor:*
 - (1) *Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or*
 - (2) *Obtains any other evidence acceptable to the Department that the property is purchased for resale; and*
- (b) *His customer:*
 - (1) *Is engaged in the business of selling tangible personal property; and*
 - (2) *Is selling the property in the regular course of business.*

Sec. 22. NRS 372.165 is hereby amended to read as follows:

372.165 ~~[-]~~ A resale certificate must:

- ~~[(a) Be signed by and bear the name and address of the purchaser.~~
- ~~[(b) Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 372.135.~~
- ~~[(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.~~

~~2. The certificate must be]~~

1. *Be substantially in such form and include such information as the Department may prescribe [-]; and*

2. *Unless submitted in electronic form, be signed by the purchaser.*

Sec. 23. NRS 372.170 is hereby amended to read as follows:

372.170 1. If a purchaser who gives a *resale* certificate makes any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business ~~[-, the]~~:

- (a) *The use is taxable to the purchaser as of the time the property is first so used by him, and the sales price of the property to him is the measure of the tax. ~~[Only when there is an unsatisfied use tax liability on this basis is the seller liable for sales tax with respect to the sale of the property to the~~*

~~purchaser.~~ If the sole use of the property other than retention, demonstration or display in the regular course of business is the rental of the property while holding it for sale, the purchaser may elect to include in his gross receipts the amount of the rental charged rather than the sales price of the property to him.

(b) The seller is liable for the sales tax with respect to the sale of the property to the purchaser only if:

(1) There is an unsatisfied use tax liability pursuant to paragraph (a); and

(2) The seller fraudulently failed to collect the tax or solicited the purchaser to provide the resale certificate unlawfully.

2. As used in this section, "seller" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a seller who is registered pursuant to NRS 360B.200.

Sec. 24. NRS 372.225 is hereby amended to read as follows:

372.225 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property sold by any person for delivery in this State is sold for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes *in good faith* from the purchaser a certificate to the effect that the property is purchased for resale ~~[-]~~ and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:

(a) The third-party vendor:

(1) Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 25. NRS 372.235 is hereby amended to read as follows:

372.235 ~~[-]~~ A resale certificate must:

~~[(a) Be signed and bear the name and address of the purchaser.~~

~~(b) Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 372.135.~~

~~(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.~~

~~2. The certificate must be~~

1. Be substantially in such form *and include such information* as the Department may prescribe ~~{ }~~; *and*

2. *Unless submitted in electronic form, be signed by the purchaser.*

Sec. 26. NRS 372.347 is hereby amended to read as follows:

372.347 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such identifying information from the purchaser at the time of sale as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department ~~{ }~~ *and provide those records to the Department upon request.*

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer fraudulently fails to collect the tax or solicits a purchaser to participate in an unlawful claim of an exemption.

6. *As used in this section, "retailer" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.*

Sec. 27. NRS 372.7275 is hereby amended to read as follows:

372.7275 In its administration of the use tax imposed by NRS 372.185, the Department shall not consider the storage, use or other consumption in this State of tangible personal property which ~~is:~~

~~1. Worth \$100 or less; and~~

~~2. Acquired~~ :

1. *Does not have significant value; and*

2. *Is acquired* free of charge at a convention, trade show or other public event.

Sec. 28. NRS 374.130 is hereby amended to read as follows:

374.130 1. Every person desiring to engage in or conduct business as a seller within a county ~~{shall register}~~ *must:*

(a) *Register* with the Department pursuant to NRS 360B.200 ; or ~~{file}~~

(b) *File* with the Department an application for a permit for each place of business.

2. Every application for a permit must:

(a) Be made upon a form prescribed by the Department.

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business.

(c) Set forth such other information as the Department may require.

~~{3.—The application must be}~~

(d) *Be signed by:*

~~{(a)}~~ (1) The owner if he is a natural person;

~~{(b)}~~ (2) A member or partner if the seller is an association or partnership;

or

~~{(c)}~~ (3) An executive officer or some person specifically authorized to sign the application if the seller is a corporation. Written evidence of the signer's authority must be attached to the application.

Sec. 29. NRS 374.135 is hereby amended to read as follows:

374.135 At the time of making an application ~~{,}~~ *for a permit pursuant to NRS 374.130*, the applicant shall pay to the Department a ~~{permit}~~ fee of \$5 for each permit.

Sec. 30. NRS 374.140 is hereby amended to read as follows:

374.140 1. Except as otherwise provided in NRS 360.205 and 374.150, after compliance with NRS 374.130, 374.135 and 374.515 by ~~{the applicant,}~~ *an applicant for a permit*, the Department shall:

(a) Grant and issue to ~~{each}~~ *the* applicant a separate permit for each place of business within the county.

(b) Provide the applicant with a full, written explanation of the liability of the applicant for the collection and payment of the taxes imposed by this chapter. The explanation required by this paragraph:

(1) Must include the procedures for the collection and payment of the taxes that are specifically applicable to the type of business conducted by the applicant, including, without limitation and when appropriate:

(I) An explanation of the circumstances under which a service provided by the applicant is taxable;

(II) The procedures for administering exemptions; and

(III) The circumstances under which charges for freight are taxable.

(2) Is in addition to, and not in lieu of, the instructions and information required to be provided by NRS 360.2925.

2. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. A permit must at all times be conspicuously displayed at the place for which it is issued.

Sec. 31. NRS 374.160 is hereby amended to read as follows:

374.160 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax it ~~{shall be}~~ is presumed that all gross

receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes *in good faith* from the purchaser a certificate to the effect that the property is purchased for resale ~~[-]~~ and the purchaser:

- (a) *Is engaged in the business of selling tangible personal property;*
- (b) *Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and*
- (c) *At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.*

2. *If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:*

- (a) *The third-party vendor:*
 - (1) *Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or*
 - (2) *Obtains any other evidence acceptable to the Department that the property is purchased for resale; and*
- (b) *His customer:*
 - (1) *Is engaged in the business of selling tangible personal property; and*
 - (2) *Is selling the property in the regular course of business.*

Sec. 32. NRS 374.170 is hereby amended to read as follows:

374.170 ~~[-]~~ A resale certificate must:

- ~~[(a) Be signed by and bear the name and address of the purchaser.~~
- ~~[(b) Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 374.140.~~
- ~~[(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.~~

~~2. The certificate must be]~~

1. *Be substantially in such form and include such information as the Department may prescribe [-]; and*

2. *Unless submitted in electronic form, be signed by the purchaser.*

Sec. 33. NRS 374.175 is hereby amended to read as follows:

374.175 1. If a purchaser who gives a *resale* certificate makes any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business ~~[-, the use shall be]~~ :

(a) *The use is taxable to the purchaser as of the time the property is first so used by him, and the sales price of the property to him [shall be deemed] is the measure of the tax. [Only when there is an unsatisfied use tax liability on this basis shall the seller be liable for sales tax with respect to the sale of the property to the purchaser.] If the sole use of the property other than retention, demonstration or display in the regular course of business is the rental of the property while holding it for sale, the purchaser may elect to include in his*

gross receipts the amount of the rental charged rather than the sales price of the property to him.

(b) The seller is liable for the sales tax with respect to the sale of the property to the purchaser only if:

(1) There is an unsatisfied use tax liability pursuant to paragraph (a); and

(2) The seller fraudulently failed to collect the tax or solicited the purchaser to provide the resale certificate unlawfully.

2. As used in this section, "seller" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a seller who is registered pursuant to NRS 360B.200.

Sec. 34. NRS 374.230 is hereby amended to read as follows:

374.230 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it ~~shall be~~ is presumed that tangible personal property sold by any person for delivery in a county is sold for storage, use or other consumption in the county until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes *in good faith* from the purchaser a certificate to the effect that the property is purchased for resale ~~[-]~~ and the purchaser:

(a) Is engaged in the business of selling tangible personal property;

(b) Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and

(c) At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.

2. If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:

(a) The third-party vendor:

(1) Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or

(2) Obtains any other evidence acceptable to the Department that the property is purchased for resale; and

(b) His customer:

(1) Is engaged in the business of selling tangible personal property; and

(2) Is selling the property in the regular course of business.

Sec. 35. NRS 374.240 is hereby amended to read as follows:

374.240 ~~[-]~~ A resale certificate must:

~~(a) Be signed and bear the name and address of the purchaser.~~

~~(b) Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 374.140.~~

~~(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.~~

~~2.—The certificate must be]~~

1. *Be substantially in such form and include such information as the Department may prescribe ~~[]~~ ; and*

2. *Unless submitted in electronic form, be signed by the purchaser.*

Sec. 36. NRS 374.352 is hereby amended to read as follows:

374.352 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such identifying information from the purchaser at the time of sale as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department ~~[]~~ *and provide those records to the Department upon request.*

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not apply if the retailer fraudulently fails to collect the tax or solicits a purchaser to participate in an unlawful claim of an exemption.

6. *As used in this section, "retailer" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.*

Sec. 37. NRS 374.726 is hereby amended to read as follows:

374.726 In its administration of the use tax imposed by NRS 374.190, the Department shall not consider the storage, use or other consumption in a county of tangible personal property which ~~is~~:

~~1.—Worth \$100 or less; and~~

~~2.—Acquired] :~~

1. *Does not have significant value; and*

2. *Is acquired free of charge at a convention, trade show or other public event.*

Sec. 38. Section 10 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 914, is hereby amended to read as follows:

Sec. 10. An ordinance enacted pursuant to this act must include provisions in substance as follows:

1. A provision imposing a tax on the gross receipts of any retailer from the sale of all tangible personal property sold at retail or stored,

used or otherwise consumed in the County, including incorporated cities in the County, at a rate of:

(a) One-quarter of 1 percent if the date on which the tax must first be imposed is on October 1, 2005; and

(b) Up to an additional one-quarter of 1 percent if the date on which the increased rate must first be imposed is on or after October 1, 2009, and if the Legislature first approves the increased rate,
 ↳ the total rate not to exceed one-half of 1 percent.

2. Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.

3. A provision that an amendment to chapter 374 of NRS enacted after the effective date of the ordinance, not inconsistent with this act, automatically becomes part of the ordinance imposing the tax.

4. A provision that the Board shall contract with the Department, before the effective date of the ordinance, to perform all the functions incident to the administration or operation of the tax in the County.

5. A provision that ~~[exempts from the tax the gross receipts from]~~ *a purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed upon the sale of, and the storage, use or other consumption in the County, including incorporated cities in the County, of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property:*

(a) That was entered into on or before the effective date of the tax; or

(b) For which a binding bid was submitted before that date if the bid was afterward accepted, and pursuant to the terms of the contract or bid, the contract price or bid amount may not be adjusted to reflect the imposition of the tax.

6. A provision that specifies the date on which the tax must first be imposed ~~[,]~~ *or on which any change in the rate of tax becomes effective, which must ~~[not be earlier than]~~ be the first day of the ~~[second calendar month following]~~ first calendar quarter that begins at least 120 days after the effective date of the ordinance.*

Sec. 39. The Legislature hereby finds and declares that:

1. There has been a rapid increase during recent years in the conduct of interstate commerce through telecommunication and electronic means.

2. Many of the merchants who transact these forms of interstate commerce have been discouraged by the substantial burdens of ascertaining and complying with the extremely diverse and detailed tax laws of each state from making the efforts necessary to collect sales and use taxes on behalf of the states in which they do not maintain a place of business.

3. As a result of the proliferation of these forms of interstate commerce and federal restrictions on the ability of each state to collect sales and use taxes from merchants who do not maintain a place of business in that state,

the people of this State are losing millions of dollars in state and local tax revenue.

4. The nonpayment of Nevada sales and use taxes by merchants in other states provides those merchants with an unfair competitive advantage over local merchants who lawfully pay the sales and use taxes due in this State.

5. As a result of the similarity of these circumstances in the various states, considerable efforts are being made to provide more uniformity, simplicity and fairness in the administration and collection of sales and use taxes in this country, including the introduction and consideration of Congressional legislation and the participation by Nevada and many other states in the Streamlined Sales and Use Tax Agreement.

6. Compliance with the Streamlined Sales and Use Tax Agreement and its amendments has and will continue to require amendments to the Nevada Sales and Use Tax Act, and it is anticipated that any Congressional legislation will also necessitate such amendments.

7. The Nevada Sales and Use Tax Act was approved by referendum at the General Election in 1956 and therefore, pursuant to Section 1 of Article 19 of the Constitution of the State of Nevada, may not be "amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people."

8. Unlike the circumstances in other states where legislatures have the direct authority to amend sales and use tax laws in a timely manner, the period required for the legislative enactment and subsequent voter approval of any necessary amendments to the Nevada Sales and Use Tax Act has placed the ability of this State to comply with the Streamlined Sales and Use Tax Agreement and any Congressional legislation in serious jeopardy.

9. It would be beneficial to the public welfare for the people of this State by direct vote to authorize the Legislature to enact without any additional voter approval such amendments to the Nevada Sales and Use Tax Act as it determines to be necessary to carry out any Congressional legislation or interstate agreements for the administration, collection or enforcement of sales and use taxes.

Sec. 40. At the General Election on November 4, 2008, a proposal must be submitted to the registered voters of this State to amend the Sales and Use Tax Act, which was enacted by the 47th Session of the Legislature of the State of Nevada and approved by the Governor in 1955, and subsequently approved by the people of this State at the General Election held on November 6, 1956.

Sec. 41. At the time and in the manner provided by law, the Secretary of State shall transmit the proposed act to the several county clerks, and the county clerks shall cause it to be published and posted as provided by law.

Sec. 42. The proclamation and notice to the voters given by the county clerks pursuant to law must be in substantially the following form:

Notice is hereby given that at the General Election on November 4, 2008, a question will appear on the ballot for the adoption

or rejection by the registered voters of the State of the following proposed act:

"AN ACT to amend an Act entitled "An Act to provide revenue for the State of Nevada; providing for sales and use taxes; providing for the manner of collection; defining certain terms; providing penalties for violation, and other matters properly relating thereto." "approved March 29, 1955, as amended.

THE PEOPLE OF THE STATE OF NEVADA

DO ENACT AS FOLLOWS:

Section 1. The above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 788, is hereby amended by adding thereto a new section to be designated as section 153.5, immediately following section 153.2, to read as follows:

Sec. 153.5. The people of the State of Nevada hereby authorize the Legislature to enact, without an additional direct vote of the people, legislation that amends, annuls, repeals, sets aside, suspends or otherwise makes inoperative any provision of this Act, being chapter 397, Statutes of Nevada 1955, at page 762, whenever the Legislature determines that such legislation is necessary to carry out any federal statute or regulation or interstate agreement providing for the administration, collection or enforcement of sales and use taxes.

Sec. 2. Section 61.5 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, as added by chapter 466, Statutes of Nevada 1985, at page 1441, is hereby repealed.

Sec. 3. This act becomes effective on January 1, 2009.

Sec. 43. The ballot page assemblies and the paper ballots to be used in voting on the question must present the question in substantially the following form:

Shall the Sales and Use Tax Act of 1955 be amended to repeal an exemption from the taxes imposed by this Act on the gross receipts from the sale of aircraft and major components of aircraft to scheduled air carriers based in this State, and to authorize the Legislature to amend or repeal any provision of this Act without an additional direct vote of the people whenever necessary to carry out any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes?

Yes ☐ No ☐

Sec. 44. The explanation of the question which must appear on each paper ballot and sample ballot and in every publication and posting of notice of the question must be in substantially the following form:

(Explanation of Question)

The proposed amendment to the Sales and Use Tax Act of 1955 would repeal an exemption from the taxes imposed by this Act for the sale of aircraft and major components of aircraft to a scheduled air carrier which

is based in Nevada, and would authorize the Legislature to enact legislation amending or repealing any provision of this Act without obtaining additional voter approval whenever that legislation is necessary to carry out any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes.

Sec. 45. If a majority of the votes cast on the question is yes, the amendment to the Sales and Use Tax Act of 1955 becomes effective on January 1, 2009. If less than a majority of votes cast on the question is yes, the question fails and the amendment to the Sales and Use Tax Act of 1955 does not become effective.

Sec. 46. All general election laws not inconsistent with this act are applicable.

Sec. 47. Any informalities, omissions or defects in the content or making of the publications, proclamations or notices provided for in this act and by the general election laws under which this election is held must be so construed as not to invalidate the adoption of the act by a majority of the registered voters voting on the question if it can be ascertained with reasonable certainty from the official returns transmitted to the office of the Secretary of State whether the proposed amendment was adopted by a majority of those registered voters.

Sec. 48. The amendatory provisions of section 38 of this act do not apply to any ordinance enacted before October 1, 2007.

Sec. 49. 1. NRS 360B.270, 372.160, 372.230, 372.728, 374.165, 374.235 and 374.728 are hereby repealed.

2. NRS 372.726 is hereby repealed.

Sec. 50. 1. This section and sections 1 to 48, inclusive, and subsection 1 of section 49 of this act become effective on October 1, 2007.

2. Subsection 2 of section 49 of this act becomes effective on January 1, 2009, only if the proposal submitted pursuant to sections 40 to 44, inclusive, of this act is approved by the voters at the general election on November 4, 2008.

LEADLINES OF REPEALED SECTIONS OF NRS AND

TEXT OF REPEALED SECTION OF STATUTES OF NEVADA

360B.270 Purchases of tangible personal property that will be used digitally or electronically in multiple jurisdictions.

372.160 Effect of resale certificate.

372.230 Effect of resale certificate.

372.726 Application of exemption for aircraft and major components of aircraft.

372.728 Construction of "retailer maintaining place of business in this State."

374.165 Effect of resale certificate.

374.235 Effect of resale certificate.

374.728 Construction of "retailer maintaining place of business in county."

Section 61.5 of chapter 397, Statutes of Nevada 1955:

Sec. 61.5. There are exempted from the taxes imposed by this act the gross receipts from the sale of aircraft and major components of aircraft, such as engines and other components made for use only in aircraft, to an air carrier which:

1. Holds a certificate to engage in air transportation issued pursuant to 49 U.S.C. § 1371 and is not solely a charter air carrier or a supplemental air carrier as described in Title 49 of the United States Code; and

2. Maintains its central office in Nevada and bases a majority of its aircraft in Nevada.

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 509.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 252.

"SUMMARY—Makes various changes to provisions relating to state financial administration and the acquisition of property. (BDR 31-424)"

"AN ACT relating to state financial administration; requiring state agencies to advertise for proposals before entering into certain lease-purchase and installment-purchase agreements; making various other changes to provisions relating to lease-purchase and installment-purchase agreements; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes state agencies to enter into lease-purchase and installment-purchase agreements to acquire real property, an interest in real property or an improvement to real property. (NRS 353.500-353.630) Section 2 of this bill requires a state agency to advertise for proposals before it enters into a lease-purchase or installment-purchase agreement for the purpose of acquiring an existing building that is located on property which is not owned by the State. Section 3 of this bill specifies the requirements for such an advertisement. Section 2 also requires that, if a state agency wishes to enter into a lease-purchase or installment-purchase agreement requiring the construction of a building on property which is owned by the State, the agency must contract with a design-build team for the design and construction of the building.

Existing law provides the requirements for lease-purchase and installment-purchase agreements which extend beyond the biennium in which the agreements are executed. Any such agreement must prohibit certificates of participation unless the State Board of Finance waives the

prohibition. (NRS 353.550) Section 5 of this bill provides that if the Board waives the prohibition, the agreement does not have to include: (1) the rate of interest to be paid under the agreement; (2) the dates on which and prices at which the prepayments may be made under the agreement; (3) the amount to be received from the sale of the agreement or interests therein; and (4) the principal amount to be paid under the agreement and the amount of principal to be repaid in any particular year.

Existing law provides that if a lease-purchase or installment-purchase agreement involves an improvement to property owned by the State, the State Land Registrar may enter into a lease of the property to which the improvement will be made if the lease has a term of 35 years or less and the lease provides for rental payments that approximate the fair market rental of the property before the improvement is made. (NRS 353.600) Section 8 of this bill provides that any such lease is exempt from ~~the~~ certain provisions of chapter 221 of NRS in existing law governing the lease of state land that require certain appraisals and the acceptance of sealed bids followed by oral offers.

Existing law authorizes the issuance and prescribes the terms of evidence of certain installment-purchase agreements. (NRS 350.091) Section 9 of this bill provides that certain installment-purchase agreements involving the construction, alteration, repair or remodeling of an improvement need not contain certain details and certain leases thereunder need not comply with certain statutes, but prevailing wage requirements (NRS 338.013-338.090) apply to the construction, alteration, repair or remodeling.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 353 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *Before a state agency enters into an agreement:*

1. *If, pursuant to the terms of the agreement:*

(a) *The state agency will acquire an existing building that is located on property which is not owned by the State; or*

(b) *The state agency will construct a building that will be located on property which is not owned by the State,*

➤ *the state agency shall advertise for proposals in the manner set forth in section 3 of this act.*

2. *If, pursuant to the terms of the agreement, the state agency will construct a building that will be located on property which is owned by the State, the state agency shall contract with a design-build team for the design and construction of the building in accordance with NRS 338.1711 to 338.1727, inclusive, regardless of the estimated cost of the building.*

Sec. 3. 1. *A state agency that is required to advertise for proposals pursuant to section 2 of this act shall advertise for proposals in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county in which the building is or will be located. If no qualified newspaper is*

published in the county, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

2. A request for proposals published pursuant to subsection 1 must include, without limitation:

(a) A description of the building, including, without limitation, its size and location;

(b) An estimate of the cost of the building;

(c) If the proposal is for the construction of a building:

(1) The date on which it is anticipated that the state agency will begin construction of the building;

(2) The date by which proposals must be submitted to the state agency; and

(3) A statement setting forth that the contractor who will construct the building must be licensed pursuant to chapter 624 of NRS; and

(d) Any other information that the state agency determines to be necessary.

3. Nothing in this section shall be construed to require a state agency to enter into an agreement with any person who submits a proposal to the state agency.

Sec. 4. NRS 353.500 is hereby amended to read as follows:

353.500 As used in NRS 353.500 to 353.630, inclusive, *and sections 2 and 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 353.510 to 353.540, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NRS 353.550 is hereby amended to read as follows:

353.550 1. A state agency may propose a project to acquire real property, an interest in real property or an improvement to real property through an agreement which has a term, including the terms of any options for renewal, that extends beyond the biennium in which the agreement is executed if the agreement:

(a) Provides that all obligations of the State of Nevada and the state agency are extinguished by the failure of the Legislature to appropriate money for the ensuing fiscal year for payments due pursuant to the agreement;

(b) Does not encumber any property of the State of Nevada or the state agency except for the property that is the subject of the agreement;

(c) Provides that property of the State of Nevada and the state agency, except for the property that is the subject of the agreement, must not be forfeited if:

(1) The Legislature fails to appropriate money for payments due pursuant to the agreement; or

(2) The State of Nevada or the state agency breaches the agreement;

(d) Prohibits certificates of participation in the agreement; and

(e) For the biennium in which it is executed, does not require payments that are greater than the amount authorized for such payments pursuant to the applicable budget of the state agency.

2. The provisions of paragraph (d) of subsection 1 may be waived by the Board, upon the recommendation of the State Treasurer, if the Board determines that waiving those provisions:

- (a) Is in the best interests of this State; and
- (b) Complies with federal securities laws.

3. Before an agreement proposed pursuant to subsection 1 may become effective:

(a) The proposed project must be approved by the Legislature by concurrent resolution or statute or as part of the budget of the state agency, or by the Interim Finance Committee when the Legislature is not in regular session;

(b) The agency must submit the proposed agreement to the Chief, the State Treasurer and the State Land Registrar for their review and transmittal to the Board;

(c) The Board must approve the proposed agreement; and

(d) The Governor must execute the agreement.

4. *If the provisions of paragraph (d) of subsection 1 are waived as provided in subsection 2, the agreement proposed pursuant to subsection 1, and the proposed agreement submitted pursuant to paragraph (b) of subsection 3 and approved pursuant to paragraph (c) of subsection 3, need not contain the following details if the Board, before the execution of the agreement by the Governor pursuant to paragraph (d) of subsection 3, delegates to the State Treasurer or his designee the authority to make a binding agreement, subject to paragraphs (a), (b), (c) and (e) of subsection 1:*

(a) The rate of interest to be paid under the agreement;

(b) The dates on which and prices at which the prepayments may be made under the agreement;

(c) The amount to be received from the sale of the agreement or interests therein; and

(d) The principal amount to be paid under the agreement and the amount of principal to be repaid in any particular year.

5. *All terms of the agreement other than:*

(a) The rate of interest to be paid under the agreement;

(b) The dates and prices for the prepayments of amounts under the agreement;

(c) The amount to be received from the sale of the agreement or interests therein; and

(d) The principal amount to be paid under the agreement and the amount of principal to be repaid in any particular year,

➡ must be approved by the Board before the agreement is executed by the Governor.

6. *The final rate of interest, dates and prices of prepayments, price for the sale of the agreement or interests therein, principal amount and requirements for the principal amounts to be repaid in any year are not required to be approved by the Board if each of those terms complies with the requirements specified by the Board before the agreement is executed by the Governor.*

Sec. 6. NRS 353.580 is hereby amended to read as follows:

353.580 ~~Any~~ *Except as otherwise provided in sections 2 and 3 of this act, an agreement entered into pursuant to NRS 353.500 to 353.630, inclusive, and sections 2 and 3 of this act is not subject to any requirement of competitive bidding or other restriction imposed on the procedure for the awarding of contracts.*

Sec. 7. NRS 353.590 is hereby amended to read as follows:

353.590 If an agreement pursuant to NRS 353.500 to 353.630, inclusive, *and sections 2 and 3 of this act* involves the construction, alteration, repair or remodeling of an improvement:

1. The construction, alteration, repair or remodeling of the improvement may be conducted as specified in the agreement without complying with the provisions of:

(a) ~~Any~~ *Except as otherwise provided in sections 2 and 3 of this act, any law requiring competitive bidding; or*
(b) Chapter 341 of NRS.

2. The provisions of NRS 338.013 to 338.090, inclusive, apply to the construction, alteration, repair or remodeling of the improvement.

Sec. 8. NRS 353.600 is hereby amended to read as follows:

353.600 1. Except as otherwise provided in this section, if an agreement pursuant to NRS 353.500 to 353.630, inclusive, *and sections 2 and 3 of this act* involves an improvement to property owned by the State of Nevada or the state agency, the State Land Registrar, in consultation with the State Treasurer and in conjunction with the agreement, upon approval of the State Board of Examiners may enter into a lease of the property to which the improvement will be made if the lease:

(a) Has a term of 35 years or less; and
(b) Provides for rental payments that approximate the fair market rental of the property before the improvement is made, as determined by the State Land Registrar in consultation with the State Treasurer at the time the lease is entered into, which must be paid if the agreement terminates before the expiration of the lease because the Legislature fails to appropriate money for payments due pursuant to the agreement.

2. A lease entered into pursuant to this section may provide for nominal rental payments to be paid pursuant to the lease before the agreement terminates.

3. Before the State Land Registrar may enter into a lease pursuant to this section:

(a) The State Land Registrar must submit the proposed lease to the Chief and the State Treasurer for their review and transmittal to the Board; and

(b) The Board must approve the lease.

4. *Any lease of state land under this section is exempt from the requirements of ~~chapter 321 of NRS~~ NRS 321.007 and 321.335.*

Sec. 9. NRS 350.091 is hereby amended to read as follows:

350.091 1. Whenever the governing body of any local government is authorized to enter into a medium-term obligation or installment-purchase agreement as provided in NRS 280.266 or 350.089 that is intended to finance a capital project, the governing body shall update its plan for capital improvement in the same manner as is required for general obligation debt pursuant to NRS 350.013.

2. Whenever the governing body of any local government is authorized to enter into a medium-term obligation as provided in NRS 350.089, the governing body may issue, as evidence thereof, negotiable notes or medium-term negotiable bonds that, except as otherwise provided in subsection 5 of NRS 496.155:

(a) Must mature not later than 10 years after the date of issuance;

(b) Must bear interest at a rate or rates which do not exceed by more than 3 percent the Index of Twenty Bonds which was most recently published before the bids are received or a negotiated offer is accepted; and

(c) May, at the option of the local government, contain a provision which allows redemption of the notes or bonds before maturity, upon such terms as the governing body determines.

3. Whenever the governing body of any local government is authorized to enter into an installment-purchase agreement as provided in NRS 280.266 or 350.089, the governing body may issue, as evidence thereof, an installment-purchase agreement, lease or other evidence of a transaction described in NRS 350.800. An installment-purchase agreement, lease or other evidence of a transaction described in NRS 350.800 issued pursuant to this subsection:

(a) Must have a term that is 30 years or less;

(b) Must bear interest at a rate or rates that do not exceed by more than 3 percent the Index of Revenue Bonds which was most recently published before the local government enters into the installment-purchase agreement; and

(c) May, at the option of the local government, contain a provision that allows prepayment of the purchase price upon such terms as are provided in the agreement.

4. *A proposed installment-purchase agreement approved by the governing body need not contain the following details if the governing body, before the execution of the installment-purchase agreement, delegates to its chief administrative officer or chief financial officer, or both, the authority to make a binding agreement, subject to paragraph (a) of subsection 1 of NRS 350.800:*

(a) The rate of interest to be paid under the installment-purchase agreement;

(b) The dates on which and the prices at which the prepayments may be made under the installment-purchase agreement;

(c) The amount to be received from the sale of the installment-purchase agreement or interests therein; and

(d) The principal amount to be paid under the installment-purchase agreement and the amount of principal to be repaid in any particular year.

5. All terms of the installment-purchase agreement other than:

(a) The rate of interest;

(b) The dates and prices for the prepayments of amounts under the installment-purchase agreement;

(c) The amount to be received from the sale of the installment-purchase agreement or interests therein; and

(d) The principal amount to be paid under the installment-purchase agreement and the amount of principal to be repaid in any particular year,

➡ must be approved by the governing body before the installment-purchase agreement is executed.

6. If an installment-purchase agreement involves a lease for a term of 35 years or less of land of the municipality on which improvements are to be located which will be, in whole or in part, the subject of the installment-purchase agreement, then no provisions of law, including, without limitation, NRS 244.2795, 244.281, 244.282, 244.283, 266.267, 268.059, 268.061 or 268.062, that require an appraisal or public bidding before entering into or executing that lease apply to the lease entered into under this subsection.

7. If an installment-purchase agreement pursuant to this section involves the construction, alteration, repair or remodeling of an improvement, the provisions of NRS 338.013 to 338.090, inclusive, apply to the construction, alteration, repair or remodeling of the improvement.

8. If the term of the medium-term obligation or installment-purchase agreement is more than 5 years, the weighted average term of the medium-term obligation or installment-purchase agreement may not exceed the estimated weighted average useful life of the assets being financed with the medium-term obligation or installment-purchase agreement.

~~{5.}~~ 9. For the purposes of subsection ~~{4.}~~ 8, the Committee on Local Government Finance may adopt regulations that provide guidelines for the useful life of various types of assets and for calculation of the weighted average useful life of assets.

Sec. 10. NRS 321.007 is hereby amended to read as follows:

321.007 1. Except as otherwise provided in subsection 5, NRS 322.063, 322.065, ~~for 322.075~~ ~~or 353.600~~, except as otherwise required by federal law and except for land that is sold or leased pursuant to an agreement entered into pursuant to NRS 277.080 to 277.170, inclusive, when offering any land for sale or lease, the State Land Registrar shall:

(a) Obtain two independent appraisals of the land before selling or leasing it. The appraisals must have been prepared not more than 6 months before the date on which the land is offered for sale or lease.

(b) Notwithstanding the provisions of chapter 333 of NRS, select the two independent appraisers from the list of appraisers established pursuant to subsection 2.

(c) Verify the qualifications of each appraiser selected pursuant to paragraph (b). The determination of the State Land Registrar as to the qualifications of an appraiser is conclusive.

2. The State Land Registrar shall adopt regulations for the procedures for creating or amending a list of appraisers qualified to conduct appraisals of land offered for sale or lease by the State Land Registrar. The list must:

(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the land that may be appraised; and

(b) Be organized at random and rotated from time to time.

3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income of the appraiser that may constitute a conflict of interest and any relationship of the appraiser with the owner of the land or the owner of an adjoining property.

4. An appraiser shall not perform an appraisal on any land offered for sale or lease by the State Land Registrar if the appraiser or a person related to the appraiser within the first degree of consanguinity or affinity has an interest in the land or an adjoining property.

5. If a lease of land is for residential property and the term of the lease is 1 year or less, the State Land Registrar shall obtain an analysis of the market value of similar rental properties prepared by a licensed real estate broker or salesman when offering such a property for lease.

Sec. 11. NRS 321.335 is hereby amended to read as follows:

321.335 1. Except as otherwise provided in NRS 321.125, 321.510, 322.063, 322.065, ~~for 322.075~~ ~~or 353.600~~, except as otherwise required by federal law and except for an agreement entered into pursuant to the provisions of NRS 277.080 to 277.170, inclusive, or a lease of residential property with a term of 1 year or less, after April 1, 1957, all sales or leases of any lands that the Division is required to hold pursuant to NRS 321.001, including lands subject to contracts of sale that have been forfeited, are governed by the provisions of this section.

2. Whenever the State Land Registrar deems it to be in the best interests of the State of Nevada that any lands owned by the State and not used or set apart for public purposes be sold or leased, he may, with the approval of the State Board of Examiners and the Interim Finance Committee, cause those lands to be sold or leased upon sealed bids, or oral offer after the opening of sealed bids for cash or pursuant to a contract of sale or lease, at a price not less than the highest appraised value for the lands plus the costs of appraisal and publication of notice of sale or lease.

3. Before offering any land for sale or lease, the State Land Registrar shall cause it to be appraised by competent appraisers selected pursuant to NRS 321.007.

4. After receipt of the report of the appraisers, the State Land Registrar shall cause a notice of sale or lease to be published once a week for 4 consecutive weeks in a newspaper of general circulation published in the county where the land to be sold or leased is situated, and in such other newspapers as he deems appropriate. If there is no newspaper published in the county where the land to be sold or leased is situated, the notice must be so published in a newspaper published in this State having a general circulation in the county where the land is situated.

5. The notice must contain:

- (a) A description of the land to be sold or leased;
- (b) A statement of the terms of sale or lease;
- (c) A statement that the land will be sold pursuant to subsection 6; and
- (d) The place where the sealed bids will be accepted, the first and last days on which the sealed bids will be accepted, and the time when and place where the sealed bids will be opened and oral offers submitted pursuant to subsection 6 will be accepted.

6. At the time and place fixed in the notice published pursuant to subsection 4, all sealed bids which have been received must, in public session, be opened, examined and declared by the State Land Registrar. Of the proposals submitted which conform to all terms and conditions specified in the notice published pursuant to subsection 4 and which are made by responsible bidders, the bid which is the highest must be finally accepted, unless a higher oral offer is accepted or the State Land Registrar rejects all bids and offers. Before finally accepting any written bid, the State Land Registrar shall call for oral offers. If, upon the call for oral offers, any responsible person offers to buy or lease the land upon the terms and conditions specified in the notice, for a price exceeding by at least 5 percent the highest written bid, then the highest oral offer which is made by a responsible person must be finally accepted.

7. The State Land Registrar may reject any bid or oral offer to purchase or lease submitted pursuant to subsection 6, if he deems the bid or offer to be:

- (a) Contrary to the public interest.
- (b) For a lesser amount than is reasonable for the land involved.
- (c) On lands which it may be more beneficial for the State to reserve.
- (d) On lands which are requested by the State of Nevada or any department, agency or institution thereof.

8. Upon acceptance of any bid or oral offer and payment to the State Land Registrar in accordance with the terms of sale specified in the notice of sale, the State Land Registrar shall convey title by quitclaim or cause a patent to be issued as provided in NRS 321.320 and 321.330.

9. Upon acceptance of any bid or oral offer and payment to the State Land Registrar in accordance with the terms of lease specified in the notice

of lease, the State Land Registrar shall enter into a lease agreement with the person submitting the accepted bid or oral offer pursuant to the terms of lease specified in the notice of lease.

10. The State Land Registrar may require any person requesting that state land be sold pursuant to the provisions of this section to deposit a sufficient amount of money to pay the costs to be incurred by the State Land Registrar in acting upon the application, including the costs of publication and the expenses of appraisal. This deposit must be refunded whenever the person making the deposit is not the successful bidder. The costs of acting upon the application, including the costs of publication and the expenses of appraisal, must be borne by the successful bidder.

11. If land that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the land, the State Land Registrar may offer the land for sale or lease a second time pursuant to this section. If there is a material change relating to the title, zoning or an ordinance governing the use of the land, the State Land Registrar must obtain a new appraisal of the land pursuant to the provisions of NRS 321.007 before offering the land for sale or lease a second time. If land that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of the land, the State Land Registrar may list the land for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the land or an adjoining property.

Sec. 12. NRS 322.060 is hereby amended to read as follows:

322.060 ~~[Subject]~~ *Except as otherwise provided in NRS 353.600, subject to the provisions of NRS 321.335, leases or easements authorized pursuant to the provisions of NRS 322.050, and not made for the purpose of extracting oil, coal or gas or the utilization of geothermal resources from the lands leased, must be:*

1. For such areas as may be required to accomplish the purpose for which the land is leased or the easement granted.

2. Except as otherwise provided in NRS 322.063, 322.065 and 322.067, for such term and consideration as the Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio State Land Registrar, may determine reasonable based upon the fair market value of the land.

3. Executed upon a form to be prepared by the Attorney General. The form must contain all of the covenants and agreements usual or necessary to such leases or easements.

~~[Sec. 10.]~~ *Sec. 13. This act becomes effective on July 1, 2007.*

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 511.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 108.

"SUMMARY—Makes various changes relating to state financial administration. (BDR 31-495)"

"AN ACT relating to state financial administration; revising provisions governing deposits of public money; revising provisions governing oversight by the State Treasurer of certain depositories of public money; abolishing the Account for Travel Advances; transferring certain duties relating to travel advances from the State Treasurer to the State Controller; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill revises NRS 353.250, which provides that, subject to certain exceptions, all public money received by a state officer, department or commission must be deposited in designated financial institutions on Thursday of each week, to allow such deposits to be made on or before Thursday of each week.

Section 4 of this bill revises the definition of "public money" set forth in NRS 356.330, which provides that "public money" means money deposited with a depository by the State or a local government, to specify that "public money" means money deposited with a depository by the State Treasurer, certain official custodians of public money and public administrators, but excluding deposits by Native American tribes, ~~for~~ the Federal Government ~~or the Public Employees' Retirement System.~~

Sections 5 and 6 of this bill revise provisions governing third-party depositories which, pursuant to NRS 356.340 and 356.360, are authorized to hold securities as collateral against deposits of public money on behalf of a depository for the benefit of the State Treasurer. The revised provisions require that such securities be held for the benefit of a collateral pool ~~in which the State Treasurer participates. Such collateral pools are established pursuant to regulations adopted by the State Treasurer (and are)~~ set forth in chapter 356 of NAC.

Section 6 of this bill also revises the provisions of NRS 356.360 which require that a depository of public money submit to the State Treasurer a weekly report of the total fair market value of securities held by a third-party depository on behalf of the depository, to require that such a weekly report be submitted only if requested by the State Treasurer.

Sections 7-11 of this bill remove the responsibilities of the State Treasurer relating to cash advances for travel. Section 7 transfers responsibility for issuing checks or warrants for cash advances for travel to the State Controller, and section 11 transfers authority to adopt regulations relating to such cash advances to the State Controller.

Section 12 of this bill abolishes the Account for Travel Advances which is administered by the State Treasurer and upon which checks are drawn to provide travel advances to state officers and employees, and section 13 of this bill provides for the reversion of the unencumbered money in the Account to the State General Fund.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 353.250 is hereby amended to read as follows:

353.250 1. The State Treasurer shall designate the financial institutions into which money received by a state officer, department or commission must be deposited.

2. Except as otherwise provided in subsections 3 and 4, every state officer, department or commission which receives or which may receive any money of the State of Nevada or for its use and benefit shall deposit on *or before* Thursday of each week, in a financial institution designated by the State Treasurer to the credit of the State Treasurer's Account, all money received by that officer, department or commission during the previous week.

3. Except as otherwise provided in subsection 4, if on any day the money accumulated for deposit is \$10,000 or more, a deposit must be made not later than the next working day.

4. If the Department of Wildlife accumulates for deposit \$10,000 or more on any day, the money must be deposited within 10 working days.

5. Every officer, department or commission which is required to deposit money with the State Treasurer shall comply with that requirement by depositing the money in a financial institution designated by the State Treasurer to the credit of the State Treasurer's Account.

6. Every officer, head of any department or commissioner who fails to comply with the provisions of this section is guilty of a misdemeanor in office.

7. As used in this section, "financial institution" means a bank, savings and loan association, thrift company or credit union regulated pursuant to title 55 or 56 of NRS.

Sec. 2. Chapter 356 of NRS is hereby amended by adding thereto a new section to read as follows:

"Acceptable securities" means the securities described in:

1. *Subsection 1 of NRS 356.020; and*

2. *Subsection 1 of NRS 356.133.*

Sec. 3. NRS 356.300 is hereby amended to read as follows:

356.300 As used in NRS 356.300 to 356.390, inclusive, *and section 2 of this act*, unless the context otherwise requires, the words and terms defined in NRS 356.310 ~~to 356.340, inclusive,~~, 356.330 and 356.340 *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 4. NRS 356.330 is hereby amended to read as follows:

356.330 1. "Public money" means *all* money deposited with a depository by ~~the State or a local government,~~ *any of the following:*

(a) *The State Treasurer.*

(b) *An official custodian with plenary authority, including control over money belonging to, or held for the benefit of, the State or any of its political subdivisions, public corporations, municipal corporations, courts, or public agencies, boards, commissions or committees. If the exercise of plenary authority over public money requires action by or the consent of two or more recognized official custodians, the official custodians shall be treated as ~~the~~ one official custodian ~~for~~ having plenary authority over the public money. For the purposes of this paragraph ~~the~~ "control" :*

(1) *"Control" means the possession of public money and the authority to establish accounts of public money in public depository institutions and to make deposits, withdrawals and disbursements of public money.*

(2) *"Official custodian" means the State or any of its political subdivisions, public corporations, municipal corporations, courts, or public agencies, boards, commissions or committees.*

(c) *A public administrator acting as a trustee, agent or bailee.*

2. *The term does not include money deposited with a depository by:*

(a) *A Native American tribe or an agent or representative thereof; ~~for~~*

(b) *The Federal Government or an agent or representative thereof ~~for~~; or*

(c) *The Public Employees' Retirement System or an agent or representative thereof.*

Sec. 5. NRS 356.340 is hereby amended to read as follows:

356.340 "Third-party depository" means a trust company or trust department of a state, national or federal reserve district bank which is authorized to hold acceptable securities on behalf of a depository for the benefit of a collateral pool ~~in which the State Treasurer~~ ~~participates~~ pursuant to regulations adopted by the State Treasurer under NRS 356.390.

Sec. 6. NRS 356.360 is hereby amended to read as follows:

356.360 ~~1.~~ The program established pursuant to NRS 356.350 must provide that:

~~(a)~~ 1. Each depository is required to maintain as collateral acceptable securities having a fair market value that is at least 102 percent of the amount of the uninsured balances of the public money held by the depository;

~~(b)~~ 2. A depository may satisfy the requirement set forth in ~~paragraph (a)~~ subsection 1 by arranging for a third-party depository to hold acceptable securities on behalf of the depository for the benefit of a collateral pool ~~in which the State Treasurer~~ ~~participates~~ pursuant to regulations adopted by the State Treasurer under NRS 356.390;

~~(c)~~ ~~participates~~ pursuant to regulations adopted by the State Treasurer under NRS 356.390;

3. No depository may, at any one time, hold public money in an amount exceeding the total equity of the depository, as reflected on the financial statement of the depository;

~~(d)~~ 4. Each depository is required to submit to the State Treasurer, in the form and manner prescribed by the State Treasurer, the following reports:

~~{{(1)}} (a)~~ A daily report of the total amount of public money held by the depository;

~~{{(2)-A}}~~

(b) If requested by the State Treasurer, a weekly summary report of the total fair market value of acceptable securities held by a third-party depository on behalf of the depository;

~~{{(3)}} (c)~~ A monthly report setting forth a list of acceptable securities, including, without limitation, the fair market value of those securities, held by the depository or held by any third-party depository on behalf of the depository; and

~~{{(4)}} (d)~~ A current annual report containing the financial statement of the depository; and

~~{{(e)}}~~ 5. The State Treasurer may impose an administrative fine not to exceed:

~~{{(1)}} (a)~~ One hundred dollars per day against a depository that fails to submit in a timely manner a report ~~{described in paragraph (d); and~~

~~{{(2)}} required by subsection 4; and~~

(b) Two hundred fifty dollars per day against a depository that fails to maintain the collateral {as described in paragraph (a)}.

~~2.—As used in this section, "acceptable securities" means the securities described in:~~

~~(a) Subsection 1 of NRS 356.020; and~~

~~(b) Subsection 1 of NRS 356.133.} required by subsection 1.~~

Sec. 7. NRS 281.172 is hereby amended to read as follows:

281.172 1. Any state officer or employee may apply for advance money for authorized travel expenses and subsistence allowances arising out of his official duties or employment in the amounts as provided for in NRS 281.160 by filing a request with the administrative head of the state office, department or agency by which he is employed.

2. If the administrative head or his designee approves the request, he shall process a voucher for a cash advance for travel in the approved amount in the same manner as other claims against the State are processed.

3. Unless otherwise approved by the Budget Division of the Department of Administration before the travel occurs, all cash advances for travel issued by the administrative head or his designee must be charged to the budget account to which money was appropriated or authorized for expenditure for the travel.

4. If the administrative head or his designee cannot process a cash advance for travel because of a temporary budget restriction, the administrative head or his designee may forward a copy of the request and approval to the State ~~{Treasurer.}~~ *Controller*.

5. Upon receiving a copy of the request and approval from the administrative head or his designee, the State ~~{Treasurer or one of his officers or employees whom he has designated for the purpose.}~~ *Controller* may issue

a check or warrant ~~[drawn upon the Account for Travel Advances for the amount of the advance requested.]~~ *for the cash advance for travel.*

Sec. 8. NRS 281.173 is hereby amended to read as follows:

281.173 A cash advance for travel, when approved by the administrative head or his designee or the State ~~[Treasurer.]~~ *Controller*, constitutes a lien in favor of the State of Nevada upon the accrued wages of the requesting officer or employee in an amount equal to the sum advanced, but the administrative head or his designee or the State ~~[Treasurer]~~ *Controller* may, in his discretion, advance more than the amount of the accrued wages of the officer or employee.

Sec. 9. NRS 281.174 is hereby amended to read as follows:

281.174 ~~[1.]~~ Upon the return of the officer or employee, he is entitled to receive any authorized expenses and subsistence allowances in excess of the amount ~~[advanced, and a sum equal to the advance must be paid into the account from which the advance was made.]~~

~~2.—If an advance is not repaid, the administrative head or his designee or the State Treasurer may file a claim with the State Board of Examiners for money to replenish the account from which the advance was made. If the State Board approves the claim it must be paid from the Reserve for Statutory Contingency Account.~~

~~3.—If an officer or employee of an agency terminates his employment after he receives a payment from the Account for Travel Advances but before repayment to the Account, the State Treasurer may collect from the agency the amount} advanced.~~

Sec. 10. NRS 281.1745 is hereby amended to read as follows:

281.1745 When an officer or employee ~~[receives a cash advance for travel from the State Treasurer or]~~ uses a charge card issued at the request of the State for cash advances or travel expenses, or both, and the receipt of his travel reimbursement may be delayed more than 5 working days after the date of the initial submission of the travel reimbursement claim, the administrative head or his designee shall immediately issue to the officer or employee, for payment to the ~~[State Treasurer or the]~~ issuer of the charge card issued at the request of the State, a cash advance as described in NRS 281.172 in the amount of the ~~[cash advance made by the State Treasurer or the]~~ total travel expenses charged on the charge card . ~~[, whichever is applicable.]~~

Sec. 11. NRS 281.175 is hereby amended to read as follows:

281.175 The State ~~[Treasurer]~~ *Controller* may make reasonable rules and regulations to carry out the provisions of NRS ~~[281.171]~~ *281.172* to 281.175, inclusive.

Sec. 12. NRS 281.171 and 356.320 are hereby repealed.

Sec. 13. Any balance remaining in the Account for Travel Advances created by NRS 281.171 that has not been committed for expenditure on or before July 1, 2007, must be reverted to the State General Fund.

Sec. 14. This act becomes effective on July 1, 2007.

TEXT OF REPEALED SECTIONS

281.171 Account for Travel Advances: Creation; use; duties of State Treasurer.

1. The Account for Travel Advances is hereby created. Money in the Account must be used by the State Treasurer to provide advance money to state officers and employees for travel expenses and subsistence allowances.

2. The State Treasurer shall deposit the money in the Account in a bank or credit union qualified to receive deposits of public money, and the deposit must be secured by collateral satisfactory to the State Board of Examiners.

3. The State Treasurer or any of his officers or employees whom he has designated for this purpose may sign all checks and warrants drawn upon the Account.

356.320 "Local government" defined. "Local government" has the meaning ascribed to it in NRS 354.474.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 549.

Bill read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 466.

"SUMMARY—Makes various changes to provisions governing certain petitions. (BDR 24-1382)"

"AN ACT relating to elections; providing a procedure for a petition proposing a statute, an amendment to statute or an amendment to the Constitution to be placed on a ballot; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires that an initiative petition be signed by at least 10 percent of the voters who voted at the last preceding general election in at least 75 percent of the counties in the State. (Nev. Const. Art. 19, § 2) The United States District Court for the District of Nevada declared that the above portion of Section 2 of Article 19 of the Nevada Constitution violates the Equal Protection Clause of the United States Constitution because it applies the same formula to counties of varying population. Such application results in the signatures of voters from small, rural counties carrying more weight than the signatures of voters from larger counties. (*Committee to Regulate and Control Marijuana v. Heller*, No. CV-S-04-01035 (D. Nev. Aug. 20, 2004)) The United States Court of Appeals for the Ninth Circuit affirmed the decision of the United States District Court. (*American Civil Liberties Union of Nevada v. Lomax*, 471 F.3d 1010 (9th Cir. Nev. 2006))

Section 8 of this bill requires a petition for initiative ~~[or referendum]~~ that proposes a statute, an amendment to statute or an amendment to the Constitution to be signed by a number of registered voters from each ~~[assembly district]~~ county in the State ~~[that equals at least 4 percent of the population of the district, as determined by the last preceding decennial census. Sections 3-6]~~ determined by applying a flexible formula which is based on the percentage of population of each county in the State so that each signature carries relatively equal weight. Section 1 of this bill requires the Secretary of State to determine the number of signatures required to be gathered from each county for a petition for initiative proposing a statute, an amendment to statute or an amendment to the Constitution as soon as practicable after each statewide general election. Section 6 of this bill ~~[provide a]~~ amends the procedure for the verification of signatures on a petition for initiative proposing a statute, an amendment to statute or an amendment to the Constitution. ~~[Sections 4 and 6 of this bill require the Secretary of State to adopt regulations concerning this procedure. Sections 8-11 of this bill provide a procedure for circulating such a petition.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 293 of NRS is hereby amended by adding thereto a new section to read as follows:

~~§ "Assembly district" means a district created pursuant to the provisions of chapter 218 of NRS for the election of members of the Assembly.]~~

1. As soon as practicable after each general election, the Secretary of State shall determine the number of signatures required to be gathered from each county within the State for a petition for initiative that proposes a statute, an amendment to statute or an amendment to the Constitution.

2. To determine the number of signatures required to be gathered from a county, the Secretary of State shall multiply the amount that equals 4 percent of the total population of the State or the amount that equals 10 percent of the voters who voted in the entire State at the last preceding general election, whichever is less, by the population percentage for that county. If the calculation results in a fraction of a signature being required for a particular county, the Secretary of State shall round up the number of signatures required for the county to the next whole number.

3. As used in this section:

(a) "Total population of the State" means the determination of the total population of the State by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c).

(b) "Population percentage for that county" means the figure obtained by dividing the population of the county, as determined by the national decennial census conducted by the Bureau of the Census of the United States

Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c), by the total population of the State.

Sec. 2. ~~[NRS 293.010 is hereby amended to read as follows:~~

~~293.010—As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, and section 1 of this act have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 293.1276 is hereby amended to read as follows:~~

~~293.1276—1. Within 4 days, excluding Saturdays, Sundays and holidays, after the submission of a petition containing signatures which are required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110, the county clerk shall determine the total number of signatures affixed to the documents and, in the case of a petition proposing a statute, an amendment to statute or an amendment to the Constitution, shall tally the number of signatures for each assembly district contained fully or partially within his county and forward that information to the Secretary of State.~~

~~2.—If the Secretary of State finds that the total number of signatures filed with all the county clerks is less than 100 percent of the required number of registered voters, he shall so notify the person who submitted the petition and the county clerks and no further action may be taken in regard to the petition. If the petition is a petition to recall a county, district or municipal officer, the Secretary of State shall also notify the officer with whom the petition is to be filed.~~

~~3.—After the petition is submitted to the county clerk, it must not be handled by any other person except by an employee of the county clerk's office until it is filed with the Secretary of State.] (Deleted by amendment.)~~

Sec. 4. ~~[NRS 293.1277 is hereby amended to read as follows:~~

~~293.1277—1. If the Secretary of State finds that the total number of signatures submitted to all the county clerks is 100 percent or more of the number of registered voters needed to declare the petition sufficient, he shall immediately so notify the county clerks. Within 9 days, excluding Saturdays, Sundays and holidays, after notification, each of the county clerks shall determine the number of registered voters who have signed the documents submitted in his county [.] and in the case of a petition proposing a statute, an amendment to statute or an amendment to the Constitution, shall tally the number of signatures for each assembly district contained fully or partially within his county.~~

~~2.—If more than 500 names have been signed on the documents submitted to him, a county clerk shall examine the signatures by sampling them at random for verification. The random sample of signatures to be verified must be drawn in such a manner that every signature which has been submitted to the county clerk is given an equal opportunity to be included in the sample.~~

~~The sample must include an examination of at least 500 or 5 percent of the signatures, whichever is greater.~~

~~3.—In determining from the records of registration the number of registered voters who signed the documents, the county clerk may use the signatures contained in the file of applications to register to vote. If the county clerk uses that file, he shall ensure that every application in the file is examined, including any application in his possession which may not yet be entered into his records. The county clerk shall rely only on the appearance of the signature and the address and date included with each signature in making his determination.~~

~~4.—In the case of a petition proposing a statute, an amendment to statute or an amendment to the Constitution, when the county clerk is determining the number of registered voters who signed the documents from each assembly district contained fully or partially within his county, he may use the statewide voter registration list.~~

~~5.—Except as otherwise provided in subsection [6,] 7, upon completing the examination, the county clerk shall immediately attach to the documents a certificate properly dated, showing the result of his examination, including the tally of signatures by assembly district, if required, and transmit the documents with the certificate to the Secretary of State. If an assembly district comprises more than one county and the petition proposes a statute, an amendment to statute or an amendment to the Constitution, the appropriate county clerks shall comply with the regulations adopted by the Secretary of State to complete the certificate. A copy of this certificate must be filed in the clerk's office. When the county clerk transmits the certificate to the Secretary of State, the county clerk shall notify the Secretary of State of the number of requests to remove a name received by the county clerk pursuant to NRS 295.055 or 306.015.~~

~~[5.] 6.—A person who submits a petition to the county clerk which is required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be allowed to witness the verification of the signatures. A public officer who is the subject of a recall petition must also be allowed to witness the verification of the signatures on the petition.~~

~~[6.] 7.—For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not transmit to the Secretary of State the documents containing the signatures of the registered voters.~~

~~[7.] 8.—The Secretary of State [may] shall by regulation establish further procedures for carrying out the provisions of this section.] (Deleted by amendment.)~~

Sec. 5. ~~[NRS 293.1278 is hereby amended to read as follows:~~

~~293.1278—1.—If the certificates received by the Secretary of State from all the county clerks establish that the number of valid signatures is less than~~

~~90 percent of the required number of registered voters, the petition shall be deemed to have failed to qualify, and the Secretary of State shall immediately so notify the petitioners and the county clerks.~~

~~2. If those certificates establish that the number of valid signatures is equal to or more than the sum of 100 percent of the number of registered voters needed to make the petition sufficient plus the total number of requests to remove a name received by the county clerks pursuant to NRS 295.055 or 306.015 [.] and, in the case of a petition proposing a statute, an amendment to statute or an amendment to the Constitution, that the petition has the minimum number of signatures required for each assembly district, the petition shall be deemed to qualify as of the date of receipt by the Secretary of State of those certificates, and the Secretary of State shall immediately so notify the petitioners and the county clerks.~~

~~3. If the certificates establish that the petitioners have 100 percent or more of the number of registered voters needed to make the petition sufficient but the petition fails to qualify pursuant to subsection 2, each county clerk who received a request to remove a name pursuant to NRS 295.055 or 306.015 shall remove each name as requested, amend the certificate and transmit the amended certificate to the Secretary of State. If the amended certificates establish that the petitioners have 100 percent or more of the number of registered voters needed to make the petition sufficient [.] and, in the case of a petition proposing a statute, an amendment to statute or an amendment to the Constitution, that the petition has the minimum number of signatures required for each assembly district, the petition shall be deemed to qualify as of the date of receipt by the Secretary of State of the amended certificates, and the Secretary of State shall immediately so notify the petitioners and the county clerks.] (Deleted by amendment.)~~

Sec. 6. NRS 293.1279 is hereby amended to read as follows:

293.1279 1. If the statistical sampling shows that the number of valid signatures filed is 90 percent or more, but less than the sum of 100 percent of the number of signatures of registered voters needed to declare the petition sufficient plus the total number of requests to remove a name received by the county clerks pursuant to NRS 295.055 or 306.015, the Secretary of State shall order the county clerks to examine the signatures for verification. The county clerks shall examine the signatures for verification until they determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid. If the county clerks received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerks may not determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid until they have removed each name as requested pursuant to NRS 295.055 or 306.015.

2. ~~[H] Except as otherwise provided in this [section.] subsection,~~ if the statistical sampling shows that the number of valid signatures filed in any

county is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county plus the total number of requests to remove a name received by the county clerk in that county pursuant to NRS 295.055 or 306.015, the Secretary of State may order the county clerk in that county to examine every signature for verification. If the county clerk received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerk may not determine that 100 percent or more of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county are valid until he has removed each name as requested pursuant to NRS 295.055 or 306.015. *In the case of a petition ~~proposing~~ for initiative that proposes a statute, an amendment to statute or an amendment to the Constitution, if the statistical sampling shows that the number of valid signatures in any ~~assembly district~~ county is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters ~~needed to constitute 4 percent or more of the population of the assembly district~~ required for that county pursuant to section 8 of this act plus the total number of requests to remove a name received by the county clerk in that ~~assembly district~~ county pursuant to NRS 295.055, ~~for 306.015,~~ the Secretary of State may order the county clerk ~~or county clerks if the assembly district comprises more than one county,~~ to examine every signature for verification. ~~If an assembly district comprises more than one county, the county clerks shall comply with the regulations adopted by the Secretary of State to complete the certificate.~~*

3. Within 12 days, excluding Saturdays, Sundays and holidays, after receipt of such an order, the county clerk ~~for clerks~~ shall determine from the records of registration what number of registered voters have signed the petition ~~and, if appropriate, tally those signatures by assembly district.~~ If necessary, the board of county commissioners shall allow the county clerk additional assistants for examining the signatures and provide for their compensation. In determining from the records of registration what number of registered voters have signed the petition ~~and in determining in which assembly district the voters reside,~~ the county clerk must use the statewide voter registration list. The county clerk may rely on the appearance of the signature and the address and date included with each signature in determining the number of registered voters that signed the petition.

4. Except as otherwise provided in subsection 5, upon completing the examination, the county clerk ~~for county clerks~~ shall immediately attach to the documents of the petition an amended certificate, properly dated, showing the result of the examination and shall immediately forward the documents with the amended certificate to the Secretary of State. A copy of the amended certificate must be filed in the county clerk's office. ~~In the case of a petition to propose a statute, an amendment to statute or an amendment to the Constitution, if an assembly district comprises more than one county,~~

~~the county clerks shall comply with the regulations adopted by the Secretary of State to complete the amended certificate.]~~

5. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not forward to the Secretary of State the documents containing the signatures of the registered voters.

6. Except for a petition to recall a county, district or municipal officer, the petition shall be deemed filed with the Secretary of State as of the date on which he receives certificates from the county clerks showing the petition to be signed by the requisite number of voters of the State.

7. If the amended certificates received from all county clerks by the Secretary of State establish that the petition is still insufficient, he shall immediately so notify the petitioners and the county clerks. If the petition is a petition to recall a county, district or municipal officer, the Secretary of State shall also notify the officer with whom the petition is to be filed.

~~[8. The Secretary of State shall adopt regulations to carry out the provisions of this section.]~~

Sec. 7. Chapter 295 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this act.

Sec. 8. 1. ~~[4]~~ Except as otherwise provided in subsection 2, a petition for initiative ~~for referendum~~ that proposes a statute, an amendment to statute or an amendment to the Constitution must be proposed by a number of registered voters from each ~~assembly district~~ county in the State that is at least equal to [4] :

(a) Four percent ~~for more~~ of the total population of ~~each assembly district in~~ the State ~~as determined by the last preceding national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(e).~~ multiplied by the population percentage for that county; or

(b) Ten percent of the voters who voted in the entire State at the last preceding general election multiplied by the population percentage for that county,

↳ whichever is less.

2. ~~[When signing a petition, a registered voter must indicate the assembly district in which he resides. The registered voter may consult the list of the registered voters in this State that each circulator of the petition is required to carry with him and may rely on the information contained in that list when he indicates the appropriate assembly district, unless he believes that the information is inaccurate.] At least one registered voter who resides in each county must sign the petition.~~

3. ~~[A circulator of a petition shall not write in the assembly district for any registered voter.] As used in this section:~~

(a) "Total population of the State" means the determination of the total population of the State by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c).

(b) "Population percentage for that county" means the figure obtained by dividing the population of the county, as determined by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c), by the total population of the State.

Sec. 9. ~~[Each circulator of a petition shall carry with him a copy of the list of registered voters that also indicates in which assembly district each registered voter resides that was provided to the petitioners by the Secretary of State pursuant to NRS 295.015.] (Deleted by amendment.)~~

Sec. 10. ~~[NRS 295.015 is hereby amended to read as follows:~~

~~295.015 1. Before a petition for initiative or referendum may be presented to the registered voters for their signatures, a copy of the petition for initiative or referendum, including the description required pursuant to NRS 295.009, must be placed on file with the Secretary of State.~~

~~2. Upon receipt of a petition for initiative or referendum placed on file pursuant to subsection 1, the Secretary of State shall [consult]:~~

~~(a) Provide to the petitioners:~~

~~(1) A current list of the registered voters in this State that also indicates in which assembly district each registered voter resides; and~~

~~(2) A map or maps indicating the boundaries of each assembly district; and~~

~~(b) Consult with the Fiscal Analysis Division of the Legislative Counsel Bureau to determine if the initiative or referendum may have any anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters. If the Fiscal Analysis Division determines that the initiative or referendum may have an anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters, the Division must prepare a fiscal note that includes an explanation of any such effect.~~

~~3. Not later than 10 business days after the Secretary of State receives a petition for initiative or referendum filed pursuant to subsection 1, the Secretary of State shall post a copy of the petition, including the description required pursuant to NRS 295.009 and any fiscal note prepared pursuant to subsection 2, on his Internet website.~~

~~4. The Secretary of State may charge a fee for the list and map he provides pursuant to subsection 2 in an amount not to exceed the actual cost of producing the copy of the list and map.~~

~~5. As used in this section, the term "assembly district" means a district created pursuant to the provisions of chapter 218 of NRS for the election of a member of the Assembly.] (Deleted by amendment.)~~

Sec. 11. ~~[NRS 295.055 is hereby amended to read as follows:~~

~~295.055 1. The Secretary of State shall by regulation specify:~~

~~(a) The format for the signatures on a petition for an initiative or referendum and make free specimens of the format available upon request. Each signature must be dated.~~

~~(b) The manner of fastening together several sheets circulated by one person to constitute a single document.~~

~~2. Each document of the petition must [bear]:~~

~~(a) Bear the name of a county, and only registered voters of that county may sign the document.~~

~~(b) Include a space for each registered voter to indicate the assembly district in which he resides.~~

~~3. A person who signs a petition may request that the county clerk remove his name from it by transmitting his request in writing to the county clerk at any time before the petition is filed with the county clerk.~~

~~4. As used in this section, the term "assembly district" means a district created pursuant to the provisions of chapter 218 of NRS for the election of a member of the Assembly.] (Deleted by amendment.)~~

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Joint Resolution No. 3.

Resolution read second time.

The following amendment was proposed by the Committee on Legislative Operations and Elections:

Amendment No. 467.

"SUMMARY—Proposes to amend the Nevada Constitution to revise provisions relating to signature requirements for initiative petitions. (BDR C-260)"

"SENATE JOINT RESOLUTION—Proposing to amend the Nevada Constitution to require that an initiative petition be proposed by a number of registered voters ~~[from each assembly district in the State]~~ equal to a certain percentage of the population of ~~[each assembly district in]~~ the State ~~[]~~, or equal to a certain percentage of registered voters who voted in the last preceding election, who reside in each county of the State in the same proportion as the population of the county bears to the total population of the State."

Legislative Counsel's Digest:

Existing law requires that an initiative petition be signed by at least 10 percent of the voters who voted at the last preceding general election in at least 75 percent of the counties in the State. (Nev. Const. Art. 19, § 2)

The United States District Court for the District of Nevada declared that the above portion of Section 2 of Article 19 of the Nevada Constitution violates the Equal Protection Clause of the United States Constitution because it applies the same formula to counties of varying population. Such application results in the signatures of voters from small, rural counties carrying more weight than the signatures of voters from larger counties. (*Committee to Regulate and Control Marijuana v. Heller*, No. CV-S-04-01035 (D. Nev. Aug. 20, 2004)) The United States Court of Appeals for the Ninth Circuit affirmed the decision of the United States District Court. (*American Civil Liberties Union of Nevada v. Lomax*, 471 F.3d 1010 (9th Cir. Nev. 2006))

This resolution proposes to amend the Nevada Constitution to remove those provisions which were found unconstitutional and replace them with a requirement that an initiative petition must be signed by a number of registered voters ~~[from each assembly district in the State]~~ that equals at least 4 percent of the total population of the ~~[district]~~ State, as determined by the last preceding decennial census ~~[or, or at least 10 percent of the total number of voters who voted at the last preceding general election, whichever number is less. The signatures must be gathered from registered voters who reside in each county in the State in the same proportion as the population of the county bears to the total population of the State.]~~

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That Section 2 of Article 19 of the Nevada Constitution be amended to read as follows:

Sec. 2. 1. Notwithstanding the provisions of Section 1 of Article 4 of this Constitution, but subject to the limitations of Section 6 of this Article, the people reserve to themselves the power to propose, by initiative petition, statutes and amendments to statutes and amendments to this Constitution, and to enact or reject them at the polls.

2. An initiative petition shall be in the form required by Section 3 of this Article and shall be proposed by a total number of registered voters ~~[from each assembly district in the State]~~ equal to at least 10 [4] percent [or more] of the number of voters who voted at the last preceding general election [in not less than 75 percent of the counties] [population of each assembly district] [in] or at least 4 percent of the total population of the State [but the total number of registered voters signing the initiative petition shall be equal to 10 percent or more of the voters who voted in the entire State at the last preceding general election.], as determined by the last preceding national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c) ~~[or, whichever total number~~

of registered voters is less. The number of registered voters who propose the initiative petition must reside in each county of the State in the same proportion as the population of the applicable county bears to the total population of the State.

3. If the initiative petition proposes a statute or an amendment to a statute, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than January 1 of the year preceding the year in which a regular session of the Legislature is held. After its circulation, it shall be filed with the Secretary of State not less than 30 days prior to any regular session of the Legislature. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall transmit such petition to the Legislature as soon as the Legislature convenes and organizes. The petition shall take precedence over all other measures except appropriation bills, and the statute or amendment to a statute proposed thereby shall be enacted or rejected by the Legislature without change or amendment within 40 days. If the proposed statute or amendment to a statute is enacted by the Legislature and approved by the Governor in the same manner as other statutes are enacted, such statute or amendment to a statute shall become law, but shall be subject to referendum petition as provided in Section 1 of this Article. If the statute or amendment to a statute is rejected by the Legislature, or if no action is taken thereon within 40 days, the Secretary of State shall submit the question of approval or disapproval of such statute or amendment to a statute to a vote of the voters at the next succeeding general election. If a majority of the voters voting on such question at such election votes approval of such statute or amendment to a statute, it shall become law and take effect upon completion of the canvass of votes by the Supreme Court. An initiative measure so approved by the voters shall not be amended, annulled, repealed, set aside or suspended by the Legislature within 3 years from the date it takes effect. If a majority of such voters votes disapproval of such statute or amendment to a statute, no further action shall be taken on such petition. If the Legislature rejects such proposed statute or amendment, the Governor may recommend to the Legislature and the Legislature may propose a different measure on the same subject, in which event, after such different measure has been approved by the Governor, the question of approval or disapproval of each measure shall be submitted by the Secretary of State to a vote of the voters at the next succeeding general election. If the conflicting provisions submitted to the voters are both approved by a majority of the voters voting on such measures, the measure which receives the largest number of affirmative votes shall thereupon become law. If at the session of the Legislature to which an initiative petition proposing an amendment to a statute is presented which the Legislature rejects or upon which it takes no action, the Legislature amends the statute which the petition proposes to amend in a respect which does not

conflict in substance with the proposed amendment, the Secretary of State in submitting the statute to the voters for approval or disapproval of the proposed amendment shall include the amendment made by the Legislature.

4. If the initiative petition proposes an amendment to the Constitution, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than September 1 of the year before the year in which the election is to be held. After its circulation it shall be filed with the Secretary of State not less than 90 days before any regular general election at which the question of approval or disapproval of such amendment may be voted upon by the voters of the entire State. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall cause to be published in a newspaper of general circulation, on three separate occasions, in each county in the State, together with any explanatory matter which shall be placed upon the ballot, the entire text of the proposed amendment. If a majority of the voters voting on such question at such election votes disapproval of such amendment, no further action shall be taken on the petition. If a majority of such voters votes approval of such amendment, the Secretary of State shall publish and resubmit the question of approval or disapproval to a vote of the voters at the next succeeding general election in the same manner as such question was originally submitted. If a majority of such voters votes disapproval of such amendment, no further action shall be taken on such petition. If a majority of such voters votes approval of such amendment, it shall, unless precluded by subsection 5 or 6, become a part of this Constitution upon completion of the canvass of votes by the Supreme Court.

5. If two or more measures which affect the same section of a statute or of the Constitution are finally approved pursuant to this Section, or an amendment to the Constitution is finally so approved and an amendment proposed by the Legislature is ratified which affect the same section, by the voters at the same election:

(a) If all can be given effect without contradiction in substance, each shall be given effect.

(b) If one or more contradict in substance the other or others, the measure which received the largest favorable vote, and any other approved measure compatible with it, shall be given effect. If the one or more measures that contradict in substance the other or others receive the same number of favorable votes, none of the measures that contradict another shall be given effect.

6. If, at the same election as the first approval of a constitutional amendment pursuant to this Section, another amendment is finally approved pursuant to this Section, or an amendment proposed by the Legislature is ratified, which affects the same section of the Constitution but is compatible with the amendment given first approval, the Secretary of State shall publish

and resubmit at the next general election the amendment given first approval as a further amendment to the section as amended by the amendment given final approval or ratified. If the amendment finally approved or ratified contradicts in substance the amendment given first approval, the Secretary of State shall not submit the amendment given first approval to the voters again.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Amendment adopted.

Resolution ordered reprinted, engrossed and to the third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Senate Bill No. 229 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 238 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 305 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 376 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 393 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 437 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that Senate Bill No. 484 be rereferred to the Committee on Finance upon return from reprint.

Remarks by Senator Raggio.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 42.

Bill read third time.

Remarks by Senators Nolan, Titus, Beers and Lee.

Roll call on Senate Bill No. 42:

YEAS—8.

NAYS—Beers, Care, Carlton, Cegavske, Coffin, Horsford, Mathews, McGinness, Nolan, Raggio, Titus, Washington, Wiener—13.

Senate Bill No. 42 having failed to receive a constitutional majority, Mr. President declared it lost.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Nolan gave notice that on the next legislative day he would move to reconsider the vote whereby Senate Bill No. 42 this day failed.

GENERAL FILE AND THIRD READING

Senate Bill No. 61.

Bill read third time.

The following amendment was proposed by the Committee on Transportation and Homeland Security:

Amendment No. 577.

"SUMMARY—Provides for a pilot program for local governments to use certain automated systems for the enforcement of traffic laws. (BDR 43-330)"

"AN ACT relating to traffic laws; requiring the Department of Transportation to establish a pilot program to allow local governments to use certain automated enforcement systems to gather evidence to be used for the issuance of traffic citations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 5 of this bill requires the Department of Transportation to adopt regulations establishing a pilot program for local governments to acquire and use automated enforcement systems to gather evidence to be used for the issuance of traffic citations. Sections 3 and 4 of this bill provide that such systems may include a red-light camera which is placed at an intersection or crosswalk that is controlled by an official traffic-control device to photograph vehicles. The regulations must, in addition to other requirements, provide that the penalty for a violation evidenced through the use of an automated enforcement system is the lowest penalty imposed for a parking violation which the Department determines is sufficient to pay the costs of administering the pilot program. Section 5 further provides: (1) that citations be mailed to the registered owner of the vehicle within 10 days after the incident and be accompanied by a picture of the driver; (2) for procedures to be adopted by which the registered owner may have the citation dismissed; and (3) that any local government that wishes to implement a pilot program must provide 30 days' notice before commencing the program and must erect signs at intersections which have an automated enforcement system in place. Finally, section 5 prohibits payments to the manufacturer or supplier of the system based on the number of citations issued.

Section 6 of this bill requires local governments to submit information they compile concerning the use of an automated enforcement system to the Department every 2 years and requires the Department to maintain a clearinghouse of information and submit a report to the Director of the Legislative Counsel Bureau.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 484 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 NRS 484.910 and 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. *"Automated enforcement system" means a contrivance, device or mechanism, or any combination thereof, which is used to obtain evidence of a moving traffic violation without operation by a person. The term includes a red-light camera.*

Sec. 4. *"Red-light camera" means a camera which:*

1. *Is adapted for use or placed at an intersection or crosswalk in which movement of vehicles or pedestrians, or both, is controlled by an official traffic-control device that is operated electrically, electronically or mechanically; and*

2. *Is capable of photographing or otherwise capturing images or representations of the following in a simultaneous or approximately simultaneous manner:*

(a) The license plate number of a vehicle;

(b) The signal displayed by or upon the official traffic-control device as the vehicle enters or exits, or both, the intersection or crosswalk;

(c) The position of the vehicle within the intersection or crosswalk relative to the signal displayed by or upon the official traffic-control device; and

(d) The date and time.

Sec. 5. 1. *The Department of Transportation shall adopt regulations establishing a pilot program to allow a county, city or other local government to acquire and use an automated enforcement system to gather evidence that may be used for the issuance of a traffic citation:*

(a) For a violation of this chapter; or

(b) For a violation of an ordinance, rule or regulation of the county, city or local government.

2. *The regulations adopted pursuant to subsection 1 must set forth, without limitation:*

(a) That the penalty for a violation evidenced through the use of an automated enforcement system will be the lowest penalty imposed for the violation of a law or ordinance governing parking which the Department determines is sufficient to pay the costs of administering the pilot program.

(b) That a citation issued through the use of an automated enforcement system must:

(1) Insofar as practicable, comply with the applicable provisions of NRS 484.799;

(2) Be issued to the registered owner of the vehicle;

(3) Include or be accompanied by a photograph of the driver;

(4) Be mailed or otherwise delivered to the registered owner of the vehicle within 10 working days after the date of the incident; and

(5) Afford the person cited:

(I) The opportunity to appeal or otherwise challenge the citation by appearance before a magistrate, justice or judge, as appropriate; or

(II) The opportunity to respond by mail within 30 days after the mailing of the citation, by submitting to the court having jurisdiction over the alleged offense, a photocopy of the driver's license of the registered owner and a signed and notarized affidavit stating that the owner was not the driver of the vehicle. A court having jurisdiction over the alleged offense that receives an affidavit and photocopy pursuant to this sub-subparagraph shall dismiss the citation without requiring a court appearance by the registered owner if it finds there is reason to believe the registered owner was not the driver of the vehicle.

(c) The information which must be included in the report that a county, city or local government is required to provide to the Department of Transportation pursuant to section 6 of this act.

3. A county, city or local government that wishes to implement a pilot program pursuant to subsection 1 shall:

(a) Coordinate with private entities to provide for a public information campaign regarding the implementation of the pilot program at least 30 days before the commencement of the pilot program; and

(b) Identify the presence of an automated enforcement system by erecting signs which clearly indicate the presence of such a system and which are visible to traffic approaching from all directions, or erect signs at all major entrances to its jurisdiction, including, without limitation, freeways, bridges and state highways.

4. A contract between the county, city or local government and a manufacturer or supplier of an automated enforcement system must:

(a) Require the manufacturer or supplier to provide sufficient evidence of a traffic violation in a timely manner to facilitate the issuance of a citation within the period provided for in paragraph (b) of subsection 2; and

(b) Provide that the manufacturer or supplier must not receive:

(1) Any payments or compensation based on the number of citations issued; or

(2) A percentage of the revenue generated as a result of the use of the automated enforcement system.

Sec. 6. The Department of Transportation shall:

1. Establish and maintain a clearinghouse of information on matters relating to the use of automated enforcement systems;

2. Require a county, city or local government that acquires and uses an automated enforcement system to report to the Department of Transportation, on or before October 1, 2007, and on or before October 1 of each even-numbered year thereafter, the information required to be reported by the regulations adopted pursuant to section 5 of this act; and

3. On or before January 1 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau for distribution to each regular session of the Legislature a report on the use of automated enforcement systems.

Sec. 7. NRS 484.910 is hereby amended to read as follows:

484.910 ~~[A]~~ Except as otherwise provided in sections 2 to 6, inclusive, of this act, a governmental entity and any agent thereof shall not use photographic, video or digital equipment for gathering evidence to be used for the issuance of a traffic citation for a violation of this chapter unless the equipment is held in the hand or installed temporarily or permanently within a vehicle or facility of a law enforcement agency.

Sec. 8. ~~[1]~~ This act becomes effective upon passage and approval ~~of~~

~~2. Section 5 of this act~~ and expires by limitation on June 30, 2011.

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Amendment adopted.

The following amendment was proposed by Senator Care:

Amendment No. 550.

"SUMMARY—Provides for a pilot program for local governments to use certain automated systems for the enforcement of traffic laws. (BDR 43-330)"

"AN ACT relating to traffic laws; requiring the Department of Transportation to establish a pilot program to allow local governments to use certain automated enforcement systems to gather evidence to be used for the issuance of traffic citations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 5 of this bill requires the Department of Transportation to adopt regulations establishing a pilot program for local governments to acquire and use automated enforcement systems to gather evidence to be used for the issuance of traffic citations. Sections 3 and 4 of this bill provide that such systems may include a red-light camera which is placed at an intersection or crosswalk that is controlled by an official traffic-control device to photograph vehicles. The regulations must, in addition to other requirements, provide that the penalty for a violation evidenced through the use of an automated enforcement system is the lowest penalty imposed for a parking violation which the Department determines is sufficient to pay the costs of administering the pilot program. Section 5 further provides: (1) that citations

be mailed to the registered owner of the vehicle within 10 days after the incident and be accompanied by a picture of the driver; (2) for procedures to be adopted by which the registered owner may have the citation dismissed; and (3) that any local government that wishes to implement a pilot program must provide 30 days' notice before commencing the program and must erect signs at intersections which have an automated enforcement system in place. Finally, section 5 prohibits payments to the manufacturer or supplier of the system based on the number of citations issued.

Section 6 of this bill requires local governments to submit information they compile concerning the use of an automated enforcement system to the Department every 2 years and requires the Department to maintain a clearinghouse of information and submit a report to the Director of the Legislative Counsel Bureau.

Section 8 of this bill prohibits local governments from implementing or using an automated enforcement system to gather evidence that may be used for the issuance of a traffic citation until front license plates are required for all vehicles in this State.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 484 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 NRS 484.910 and 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. *"Automated enforcement system" means a contrivance, device or mechanism, or any combination thereof, which is used to obtain evidence of a moving traffic violation without operation by a person. The term includes a red-light camera.*

Sec. 4. *"Red-light camera" means a camera which:*

1. *Is adapted for use or placed at an intersection or crosswalk in which movement of vehicles or pedestrians, or both, is controlled by an official traffic-control device that is operated electrically, electronically or mechanically; and*

2. *Is capable of photographing or otherwise capturing images or representations of the following in a simultaneous or approximately simultaneous manner:*

(a) *The license plate number of a vehicle;*

(b) *The signal displayed by or upon the official traffic-control device as the vehicle enters or exits, or both, the intersection or crosswalk;*

(c) *The position of the vehicle within the intersection or crosswalk relative to the signal displayed by or upon the official traffic-control device; and*

(d) *The date and time.*

Sec. 5. 1. *The Department of Transportation shall adopt regulations establishing a pilot program to allow a county, city or other local*

government to acquire and use an automated enforcement system to gather evidence that may be used for the issuance of a traffic citation:

(a) For a violation of this chapter; or

(b) For a violation of an ordinance, rule or regulation of the county, city or local government.

2. The regulations adopted pursuant to subsection 1 must set forth, without limitation:

(a) That the penalty for a violation evidenced through the use of an automated enforcement system will be the lowest penalty imposed for the violation of a law or ordinance governing parking which the Department determines is sufficient to pay the costs of administering the pilot program.

(b) That a citation issued through the use of an automated enforcement system must:

(1) Insofar as practicable, comply with the applicable provisions of NRS 484.799;

(2) Be issued to the registered owner of the vehicle;

(3) Include or be accompanied by a photograph of the driver;

(4) Be mailed or otherwise delivered to the registered owner of the vehicle within 10 working days after the date of the incident; and

(5) Afford the person cited:

(I) The opportunity to appeal or otherwise challenge the citation by appearance before a magistrate, justice or judge, as appropriate; or

(II) The opportunity to respond by mail within 30 days after the mailing of the citation, by submitting to the court having jurisdiction over the alleged offense, a photocopy of the driver's license of the registered owner and a signed and notarized affidavit stating that the owner was not the driver of the vehicle. A court having jurisdiction over the alleged offense that receives an affidavit and photocopy pursuant to this sub-subparagraph shall dismiss the citation without requiring a court appearance by the registered owner if it finds there is reason to believe the registered owner was not the driver of the vehicle.

(c) The information which must be included in the report that a county, city or local government is required to provide to the Department of Transportation pursuant to section 6 of this act.

3. A county, city or local government that wishes to implement a pilot program pursuant to subsection 1 shall:

(a) Coordinate with private entities to provide for a public information campaign regarding the implementation of the pilot program at least 30 days before the commencement of the pilot program; and

(b) Identify the presence of an automated enforcement system by erecting signs which clearly indicate the presence of such a system and which are visible to traffic approaching from all directions, or erect signs at all major entrances to its jurisdiction, including, without limitation, freeways, bridges and state highways.

4. A contract between the county, city or local government and a manufacturer or supplier of an automated enforcement system must:

(a) Require the manufacturer or supplier to provide sufficient evidence of a traffic violation in a timely manner to facilitate the issuance of a citation within the period provided for in paragraph (b) of subsection 2; and

(b) Provide that the manufacturer or supplier must not receive:

(1) Any payments or compensation based on the number of citations issued; or

(2) A percentage of the revenue generated as a result of the use of the automated enforcement system.

Sec. 6. The Department of Transportation shall:

1. Establish and maintain a clearinghouse of information on matters relating to the use of automated enforcement systems;

2. Require a county, city or local government that acquires and uses an automated enforcement system to report to the Department of Transportation, on or before October 1, 2007, and on or before October 1 of each even-numbered year thereafter, the information required to be reported by the regulations adopted pursuant to section 5 of this act; and

3. On or before January 1 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau for distribution to each regular session of the Legislature a report on the use of automated enforcement systems.

Sec. 7. NRS 484.910 is hereby amended to read as follows:

484.910 ~~[A]~~ Except as otherwise provided in sections 2 to 6, inclusive, of this act, a governmental entity and any agent thereof shall not use photographic, video or digital equipment for gathering evidence to be used for the issuance of a traffic citation for a violation of this chapter unless the equipment is held in the hand or installed temporarily or permanently within a vehicle or facility of a law enforcement agency.

Sec. 8. A county, city or other local government shall not implement or use an automated enforcement system to gather evidence that may be used for the issuance of a traffic citation until a front license plate is required by law for all motor vehicles other than a motorcycle, power cycle or motor vehicle being transported by a licensee vehicle transporter.

~~[Sec. 8.]~~ Sec. 9. 1. This act becomes effective upon passage and approval.

2. Section 5 of this act expires by limitation on June 30, 2011.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Motion failed.

The following amendment was proposed by Senator Care:

Amendment No. 551.

"SUMMARY—Provides for a pilot program for local governments to use certain automated systems for the enforcement of traffic laws. (BDR 43-330)"

"AN ACT relating to traffic laws; requiring the Department of Transportation to establish a pilot program to allow local governments to use certain automated enforcement systems to gather evidence to be used for the issuance of traffic citations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 5 of this bill requires the Department of Transportation to adopt regulations establishing a pilot program for local governments to acquire and use automated enforcement systems to gather evidence to be used for the issuance of traffic citations. Sections 3 and 4 of this bill provide that such systems may include a red-light camera which is placed at an intersection or crosswalk that is controlled by an official traffic-control device to photograph vehicles. The regulations must, in addition to other requirements, provide that the penalty for a violation evidenced through the use of an automated enforcement system is the lowest penalty imposed for a parking violation which the Department determines is sufficient to pay the costs of administering the pilot program. Section 5 further provides: (1) that citations be mailed to the registered owner of the vehicle within 10 days after the incident and be accompanied by a picture of the driver; (2) for procedures to be adopted by which the registered owner may have the citation dismissed; and (3) that any local government that wishes to implement a pilot program must provide 30 days' notice before commencing the program and must erect signs at intersections which have an automated enforcement system in place. Finally, section 5 prohibits payments to the manufacturer or supplier of the system based on the number of citations issued.

Section 6 of this bill requires local governments to submit information they compile concerning the use of an automated enforcement system to the Department every 2 years and requires the Department to maintain a clearinghouse of information and submit a report to the Director of the Legislative Counsel Bureau.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 484 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 NRS 484.910 and 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. *"Automated enforcement system" means a contrivance, device or mechanism, or any combination thereof, which is used to obtain evidence of a moving traffic violation without operation by a person. The term includes a red-light camera.*

Sec. 4. *"Red-light camera" means a camera which:*

1. *Is adapted for use or placed at an intersection or crosswalk in which movement of vehicles or pedestrians, or both, is controlled by an official*

traffic-control device that is operated electrically, electronically or mechanically; and

2. Is capable of photographing or otherwise capturing images or representations of the following in a simultaneous or approximately simultaneous manner:

- (a) The number on the rear license plate ~~number~~ of a vehicle;
- (b) The signal displayed by or upon the official traffic-control device as the vehicle enters or exits, or both, the intersection or crosswalk;
- (c) The position of the vehicle within the intersection or crosswalk relative to the signal displayed by or upon the official traffic-control device; and
- (d) The date and time.

Sec. 5. 1. The Department of Transportation shall adopt regulations establishing a pilot program to allow a county, city or other local government to acquire and use an automated enforcement system to gather evidence that may be used for the issuance of a traffic citation:

- (a) For a violation of this chapter; or
- (b) For a violation of an ordinance, rule or regulation of the county, city or local government.

2. The regulations adopted pursuant to subsection 1 must set forth, without limitation:

(a) That the penalty for a violation evidenced through the use of an automated enforcement system will be the lowest penalty imposed for the violation of a law or ordinance governing parking which the Department determines is sufficient to pay the costs of administering the pilot program.

(b) That a citation issued through the use of an automated enforcement system must:

(1) Insofar as practicable, comply with the applicable provisions of NRS 484.799;

(2) Be issued to the registered owner of the vehicle;

(3) Include or be accompanied by a photograph of the driver;

(4) Be mailed or otherwise delivered to the registered owner of the vehicle within 10 working days after the date of the incident; and

(5) Afford the person cited:

(I) The opportunity to appeal or otherwise challenge the citation by appearance before a magistrate, justice or judge, as appropriate; or

(II) The opportunity to respond by mail within 30 days after the mailing of the citation, by submitting to the court having jurisdiction over the alleged offense, a photocopy of the driver's license of the registered owner and a signed and notarized affidavit stating that the owner was not the driver of the vehicle. A court having jurisdiction over the alleged offense that receives an affidavit and photocopy pursuant to this sub-subparagraph shall dismiss the citation without requiring a court appearance by the registered owner if it finds there is reason to believe the registered owner was not the driver of the vehicle.

(c) *The information which must be included in the report that a county, city or local government is required to provide to the Department of Transportation pursuant to section 6 of this act.*

3. *A county, city or local government that wishes to implement a pilot program pursuant to subsection 1 shall:*

(a) *Coordinate with private entities to provide for a public information campaign regarding the implementation of the pilot program at least 30 days before the commencement of the pilot program; and*

(b) *Identify the presence of an automated enforcement system by erecting signs which clearly indicate the presence of such a system and which are visible to traffic approaching from all directions, or erect signs at all major entrances to its jurisdiction, including, without limitation, freeways, bridges and state highways.*

4. *A contract between the county, city or local government and a manufacturer or supplier of an automated enforcement system must:*

(a) *Require the manufacturer or supplier to provide sufficient evidence of a traffic violation in a timely manner to facilitate the issuance of a citation within the period provided for in paragraph (b) of subsection 2; and*

(b) *Provide that the manufacturer or supplier must not receive:*

(1) *Any payments or compensation based on the number of citations issued; or*

(2) *A percentage of the revenue generated as a result of the use of the automated enforcement system.*

Sec. 6. *The Department of Transportation shall:*

1. *Establish and maintain a clearinghouse of information on matters relating to the use of automated enforcement systems;*

2. *Require a county, city or local government that acquires and uses an automated enforcement system to report to the Department of Transportation, on or before October 1, 2007, and on or before October 1 of each even-numbered year thereafter, the information required to be reported by the regulations adopted pursuant to section 5 of this act; and*

3. *On or before January 1 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau for distribution to each regular session of the Legislature a report on the use of automated enforcement systems.*

Sec. 7. NRS 484.910 is hereby amended to read as follows:

484.910 ~~{A}~~ *Except as otherwise provided in sections 2 to 6, inclusive, of this act, a governmental entity and any agent thereof shall not use photographic, video or digital equipment for gathering evidence to be used for the issuance of a traffic citation for a violation of this chapter unless the equipment is held in the hand or installed temporarily or permanently within a vehicle or facility of a law enforcement agency.*

Sec. 8. 1. This act becomes effective upon passage and approval.

2. Section 5 of this act expires by limitation on June 30, 2011.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Motion failed.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 92.

Bill read third time.

Roll call on Senate Bill No. 92:

YEAS—20.

NAYS—Carlton.

Senate Bill No. 92 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 94.

Bill read third time.

The following amendment was proposed by Senator McGinness:

Amendment No. 599.

"SUMMARY—Revises provisions governing the occupancy tax imposed on lodging in Douglas County. (BDR S-39)"

"AN ACT relating to taxation; ~~increasing~~ *authorizing an increase in* the occupancy ~~tax~~ *taxes* imposed on lodging ~~within Tahoe Township~~ in Douglas County; *requiring a two-thirds majority vote of the Board of County Commissioners to impose or increase the tax;* increasing the amount of the proceeds of that tax that must be remitted to the Tahoe-Douglas Visitor's Authority; revising the provisions governing the use of that tax; ~~authorizing an increase in the occupancy tax on lodging within the other portions of Douglas County; revising the provisions governing the use of that tax;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, an occupancy tax of 8 percent is imposed on lodging in Tahoe Township in Douglas County. (Tahoe-Douglas Visitor's Authority Act § 19) Section 2 of this bill ~~increases~~ *authorizes the Board of County Commissioners to increase* the occupancy tax that is imposed on lodging in Tahoe Township to 10 percent ~~if~~ *upon a two-thirds majority vote*. Section 3 of this bill increases the amount of the proceeds of that tax that must be remitted to the Tahoe-Douglas Visitor's Authority and authorizes the use of those proceeds by the Authority for the planning, construction and operation of a convention center in the South Shore Community of Lake Tahoe, including the Township and the City of South Lake Tahoe, California ~~if~~ *if the tax is increased*.

Under existing law, Douglas County is authorized to impose an occupancy tax on lodging in the other portions of the County. The occupancy tax must not exceed 8 percent of the gross taxable rent paid for lodging. (Douglas County Lodgers Tax Law Act § 28) Section 1 of this bill ~~increases the~~

~~maximum authorized~~ *authorizes the Board of County Commissioners, upon a two-thirds majority vote, to increase the* occupancy tax that may be imposed in the other portions of Douglas County to 10 percent and revises the amount of that tax that must be used exclusively for advertising, publicizing and promoting tourism and recreational facilities ~~if the tax is increased.~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 28 of the Douglas County Lodgers Tax Law Act, being chapter 639, Statutes of Nevada 1969, as last amended by chapter 496, Statutes of Nevada 1997, at page 2381, is hereby amended to read as follows:

Sec. 28. Authorization of tax.

1. The municipality may impose an occupancy tax for revenues by ordinance on lodging within the portion of the county lying outside the Tahoe Township, as the boundaries of that township existed on July 1, 1997.

~~2.~~ The occupancy tax ~~shall~~ *must* not exceed 8 percent of the gross taxable rent. ~~Any~~

2. The governing body may impose an additional occupancy tax of 2 percent upon an affirmative vote of two-thirds of the members.

3. If the additional tax is imposed pursuant to subsection 2, any amount in excess of \$5 5.25 percent must be used exclusively for advertising, publicizing and promoting tourism and the recreational facilities. If the additional tax is not imposed, any amount in excess of 5 percent must be used for those purposes.

~~3.~~ 4. Every vendor who is furnishing any lodgings within the municipality is exercising a taxable privilege.

~~4.~~ 5. A vendor is not exempt from the occupancy tax because the taxable premises are at any time located in a political subdivision other than the municipality.

Sec. 2. Section 19 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, as amended by chapter 496, Statutes of Nevada 1997, at page 2379, is hereby amended to read as follows:

Sec. 19. 1. An occupancy tax of 8 percent is hereby imposed on vendors furnishing lodgings in the township. *The governing body may impose an additional occupancy tax of 2 percent upon an affirmative vote of two-thirds of the members.* The governing body shall administer the tax.

2. Every vendor who furnishes any lodgings within the Township is exercising a taxable privilege.

3. A vendor is not exempt from the occupancy tax because the taxable premises are at any time located in a political subdivision other than the municipality.

Sec. 3. Section 26 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, as amended by chapter 496, Statutes of Nevada 1997, at page 2379, is hereby amended to read as follows:

Sec. 26. 1. From the proceeds of the occupancy tax paid by vendors located in the township, the governing body shall:

(a) Pay the principal of, interest on and any prior redemption premiums due in connection with any securities issued by the county pursuant to the Douglas County Lodgers Tax Law which were secured with the proceeds of the occupancy tax collected pursuant to the Douglas County Lodgers Tax Law.

(b) After allocation of those proceeds pursuant to paragraph (a), pay any obligations incurred before July 1, 1997, pursuant to any contractual agreements between the governing body and the Lake Tahoe Visitor's Authority.

2. A portion of the proceeds of the occupancy tax paid by vendors located in the Township, not to exceed 1 percent of the amount collected, may be used to collect and administer the tax.

3. ~~{One-eighth}~~ ~~{One-tenth}~~ If the additional tax is imposed pursuant to subsection 1 of section 19, one-tenth of the proceeds of the occupancy tax paid by vendors located in the Township must be remitted to the Authority. If the additional tax is not imposed, one-eighth of the proceeds must be remitted to the Authority.

4. After allocation pursuant to subsections 1, 2 and 3 of the proceeds of the occupancy tax paid by vendors located in the Township, the remaining proceeds must be allocated as follows:

(a) Except as otherwise provided in paragraph (b), for each Fiscal Year beginning on or after July 1, 1999, 50 percent of those proceeds must be retained by the governing body for expenditure in any manner authorized for the expenditure of the proceeds of a tax imposed pursuant to the Douglas County Lodgers Tax Law and 50 percent of those proceeds must be remitted to the Authority.

(b) Except as otherwise provided in paragraph (c), for each Fiscal Year beginning on or after July 1, 2000, the governing body shall revise the allocation required pursuant to this subsection in such a manner that the amount of those proceeds retained by the governing body is reduced, and the amount remitted to the Authority is increased, from the amounts for the prior fiscal year by not less than 2 percent and not more than 5 percent of the total amount of the proceeds allocated pursuant to this subsection, until the amount retained by the governing body for each fiscal year equals ~~{35}~~ 30 percent of those proceeds if the additional tax is imposed pursuant to subsection 1 of section 19 and if the additional tax is not imposed, 35 percent of those proceeds and the amount remitted to the Authority for each fiscal year equals ~~{65}~~ 70 percent of those proceeds if the additional tax is imposed and 65 percent if the additional tax is not imposed.

(c) The governing body may, for not more than one of the Fiscal Years beginning on or after July 1, 2000, elect not to make a revision otherwise required pursuant to paragraph (b).

5. The proceeds remitted to the Authority pursuant to subsections 3 and 4 must be used exclusively for:

(a) The advertising, publicizing and promotion of tourism and recreation; and

(b) The planning, construction and operation of a convention center in the *South Shore Community of Lake Tahoe, including the Township [] and the City of South Lake Tahoe, California.*

Sec. 4. This act becomes effective on July 1, 2007.

Senator McGinness moved the adoption of the amendment.

Remarks by Senator McGinness.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 106.

Bill read third time.

The following amendment was proposed by Senator Nolan:

Amendment No. 582.

"SUMMARY—Revises provisions concerning the release of certain confidential and restricted documents relating to potential acts of terrorism. (BDR 19-300)"

"AN ACT relating to homeland security; prescribing the persons authorized to inspect certain confidential or restricted documents relating to potential acts of terrorism; ~~extending~~ eliminating the prospective expiration ~~date~~ of the provisions relating to such confidential and restricted documents; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 3 and 4 of this bill prescribe the persons who may properly inspect certain confidential documents that are prepared and maintained to prevent or respond to an act of terrorism and certain restricted documents which include blueprints or plans of certain places likely to be targeted for a terrorist attack to include state, county and city emergency managers, members of Nevada terrorism early warning centers or fusion intelligence centers and their staff and employees of fire-fighting, law enforcement and public health agencies. (NRS 239C.210, 239C.220) Section 5 of this bill ~~extends~~ eliminates the prospective expiration ~~date~~ of the provisions relating to such confidential and restricted documents. ~~[from June 30, 2007, to June 30, 2009.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 239C of NRS is hereby amended by adding thereto a new section to read as follows:

"Law enforcement agency" means:

1. *The sheriff's office of a county;*
2. *A metropolitan police department;*
3. *A police department of an incorporated city; or*
4. *The Department of Public Safety.*

Sec. 2. NRS 239C.020 is hereby amended to read as follows:

239C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 239C.030 to 239C.110, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.

Sec. 3. NRS 239C.210 is hereby amended to read as follows:

239C.210 1. A document, record or other item of information described in subsection 2 that is prepared and maintained for the purpose of preventing or responding to an act of terrorism is confidential, not subject to subpoena or discovery, ~~and~~ not subject to inspection by the general public *and may only be inspected by or released to public safety and public health personnel* if the Governor determines, by executive order, that the disclosure or release of the document, record or other item of information would thereby create a substantial likelihood of compromising, jeopardizing or otherwise threatening the public health, safety or welfare.

2. The types of documents, records or other items of information subject to executive order pursuant to subsection 1 are as follows:

(a) Assessments, plans or records that evaluate or reveal the susceptibility of fire stations, police stations and other law enforcement stations to acts of terrorism or other related emergencies.

(b) Drawings, maps, plans or records that reveal the critical infrastructure of primary buildings, facilities and other structures used for storing, transporting or transmitting water or electricity, natural gas or other forms of energy.

(c) Documents, records or other items of information which may reveal the details of a specific emergency response plan or other tactical operations by a response agency and any training relating to such emergency response plans or tactical operations.

(d) Handbooks, manuals or other forms of information detailing procedures to be followed by response agencies in the event of an act of terrorism or other related emergency.

(e) Documents, records or other items of information that reveal information pertaining to specialized equipment used for covert, emergency or tactical operations of a response agency, other than records relating to expenditures for such equipment.

(f) Documents, records or other items of information regarding the infrastructure and security of frequencies for radio transmissions used by response agencies, including, without limitation:

(1) Access codes, passwords or programs used to ensure the security of frequencies for radio transmissions used by response agencies;

(2) Procedures and processes used to ensure the security of frequencies for radio transmissions used by response agencies; and

(3) Plans used to reestablish security and service with respect to frequencies for radio transmissions used by response agencies after security has been breached or service has been interrupted.

3. If a person knowingly and unlawfully discloses a document, record or other item of information subject to an executive order issued pursuant to subsection 1 or assists, solicits or conspires with another person to disclose such a document, record or other item of information, the person is guilty of:

- (a) A gross misdemeanor; or
- (b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

(1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or

(2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

4. *As used in this section, "public safety and public health personnel" includes:*

- (a) *State, county and city emergency managers;*
- (b) *Members and staff of terrorism early warning centers or fusion intelligence centers in this State;*
- (c) *Employees of fire-fighting or law enforcement agencies; and*
- (d) ~~*Any other person who performs a function related to public safety or public health.*~~ *Employees of a public health agency if the agency is one that would respond to a disaster. As used in this paragraph, "disaster" has the meaning ascribed to it in NRS 414.0335.*

Sec. 4. NRS 239C.220 is hereby amended to read as follows:

239C.220 1. Unless made confidential by specific statute, a restricted document may be inspected only by a person who provides:

- (a) His name;
- (b) A copy of his driver's license or other photographic identification that is issued by a governmental entity;
- (c) The name of his employer, if any;
- (d) His citizenship; and
- (e) Except as otherwise provided in this paragraph, a statement of the purpose for the inspection. A person is not required to indicate the purpose for inspecting a restricted document if the person is ~~an~~ :

- (1) *A state, county or city emergency manager;*
- (2) *A member or staff person of a terrorism early warning center or fusion intelligence center in this State;*
- (3) *An employee of any fire-fighting or law enforcement agency ~~[-]~~ ; or*
- (4) ~~*A person who performs a function related to public safety or public health.*~~ *An employee of a public health agency if the agency is one that would respond to a disaster. As used in this subparagraph, "disaster" has the meaning ascribed to it in NRS 414.0335.*

2. Except as otherwise provided in subsection 3, a public officer or employee shall observe any person while the person inspects a restricted

document in a location and in a manner which ensures that the person does not copy, duplicate or reproduce the restricted document in any way.

3. A restricted document may be copied, duplicated or reproduced:

(a) Upon the lawful order of a court of competent jurisdiction;

(b) As is reasonably necessary in the case of an act of terrorism or other related emergency;

(c) To protect the rights and obligations of a governmental entity or the public;

(d) Upon the request of a reporter or editorial employee who is employed by or affiliated with a newspaper, press association or commercially operated and federally licensed radio or television station and who uses the restricted document in the course of such employment or affiliation; or

(e) Upon the request of a registered architect, licensed contractor or a designated employee of any such architect or contractor who uses the restricted document in his professional capacity.

4. A public officer or employee shall inform any person who inspects a restricted document of the provisions of this section.

Sec. 5. Section 40 of chapter 402, Statutes of Nevada 2003, at page 2469, is hereby amended to read as follows:

Sec. 40. 1. This section and sections 1 to 33, inclusive, 38, 38.5 and 39 of this act become effective on July 1, 2003.

2. Sections 34 to 37, inclusive, of this act become effective on January 1, 2004.

~~[3. The provisions of sections 21 to 24, inclusive, and 27.5 of this act expire by limitation on June 30, 2007.]~~

Sec. 6. This act becomes effective upon passage and approval.

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 125.

Bill read third time.

Roll call on Senate Bill No. 125:

YEAS—21.

NAYS—None.

Senate Bill No. 125 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Townsend moved that Senate Bill No. 141 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Townsend.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 157.

Bill read third time.

Roll call on Senate Bill No. 157:

YEAS—21.

NAYS—None.

Senate Bill No. 157 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 235.

Bill read third time.

Remarks by Senator Beers.

Roll call on Senate Bill No. 235:

YEAS—14.

NAYS—Care, Coffin, Horsford, Mathews, Titus, Wiener, Woodhouse—7.

Senate Bill No. 235 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 319.

Bill read third time.

Roll call on Senate Bill No. 319:

YEAS—21.

NAYS—None.

Senate Bill No. 319 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 328.

Bill read third time.

Remarks by Senators Beers, Schneider and Washington.

Senator Washington requested that his remarks be entered in the Journal.

Thank you, Mr. President. I need to correct the record for my good Senators from Senate District 6 and Senate District 11.

Based on the testimony that we heard and based on the bill itself, it is actually one day a year, for one hour, and it is for 45 minutes consecutively within that one hour paid. There was unanimous support for the bill.

Roll call on Senate Bill No. 328:

YEAS—19.

NAYS—Carlton, Schneider—2.

Senate Bill No. 328 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 405.

Bill read third time.

Roll call on Senate Bill No. 405:

YEAS—18.

NAYS—Titus, Wiener, Woodhouse—3.

Senate Bill No. 405 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 438.

Bill read third time.

Roll call on Senate Bill No. 438:

YEAS—13.

NAYS—Care, Coffin, Horsford, Lee, Mathews, Titus, Wiener, Woodhouse—8.

Senate Bill No. 438 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 450.

Bill read third time.

Roll call on Senate Bill No. 450:

YEAS—21.

NAYS—None.

Senate Bill No. 450 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 473.

Bill read third time.

Roll call on Senate Bill No. 473:

YEAS—21.

NAYS—None.

Senate Bill No. 473 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 543.

Bill read third time.

Remarks by Senators Heck, Carlton and Titus.

Roll call on Senate Bill No. 543:

YEAS—12.

NAYS—Care, Carlton, Coffin, Horsford, Mathews, Schneider, Titus, Wiener, Woodhouse—9.

Senate Bill No. 543 having failed to receive a two-thirds majority,
Mr. President declared it lost.

UNFINISHED BUSINESS
SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Assembly Bills Nos. 153, 192; Assembly Concurrent Resolution No. 9.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Amodei, the privilege of the floor of the Senate Chamber for this day was extended to the following students, chaperones and teachers from the Bordewich-Bray Elementary School: Aiden Kendrick, Catie Taylor-Dillon, Christian Iriarte, Christopher Mattoon, Connor Johnson, Denver Scott, Donald Elkins, Emily Clark, Jada Robertson, Kaleb Gara, Kayla Vieyra, Kody Hipple, Leslie Segura, Luis Montes, Melany Sanchez, Michelle Nunez, Morgan Pruzzp, Nolan Sheldonh, Samantha Bentley, Sawyer Barnett, Skylar Thackston, Sophia Williams, Steven Flanagan, Taylor Dixon, Vencint Maes; chaperones: Sherri Clark, Wendi Thackston; teachers: Jessoca Gramat and Rachel Barilla.

On request of Senator Heck, the privilege of the floor of the Senate Chamber for this day was extended to the Nevada Osteopathic Medical Association: Skip Moellar, Amy Gookin, Travis Snyder, Amanda Cowee, Matthew Jenkins, Matthew Carlton, David Bynn, Mitchell Forman D.O., David Park D.O., Sharon Gustowski D.O., James Jempsa D.O., Sam Winter D.O., Andrew Swanson D.O., Michael Harter Ph.D and Winona Anhauser DVM.

On request of Senator McGinness, the privilege of the floor of the Senate Chamber for this day was extended to the following students from the Minden Elementary School: Patrick Adams, Sarah Amador, Jenni Castillo Madrid, Hannah Colbert, Kathyn Crurnrine, Joseph Cruz, Amy Cullen, Vincent Garcia, Morgan Garside, Alexander Ghan, Maria Gudino-Cueva, Jackie Johnson, Luke Leonard, Connor Miller, Kendra Miller, Thomas Millsap, Thomas Palmer, Jarret Preston, Marcus Reyes, Lepollon Rose, Mikayla Slack, Megan Slobogin, Jacob Stella, Madeline Strauss, Tanner Thorson, Rebecca Valentine, Camry Varble, Brenhan Wylie, Julianna Allre, Gerardo Armenta Silva, Kyle Barnes, Lia Bordonaba, Samantha Brown, Brennan Callahan, Roberto Castellanos, Andrew Cheechov, Casey Connolly, Alana Frederick, Luis Garcia Ramirez, Brittney Gilroy, Daniel Gourlay, Kristan Henie, Jacob Holley, Emily Holt, Brooke Hranek, Sierra Hughes, Cassidy Norton, Brooke Park, Christopher Presley, Luke Romero, Benjamin Sabin, Coby Souza, Katharine Teigen, Jaden Wass, Reid Winans and Alexander Wright.

Senator Raggio moved that the Senate adjourn until Tuesday, April 24, 2007, at 11 a.m.

Motion carried.

Senate adjourned at 9:43 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate